

COURT OF APPEALS
MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

EUGENE B. MCCALL	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
Petitioner	:	Hon. Sheila G. Farmer, J.
	:	Hon. John W. Wise, J.
-vs-	:	
	:	
JUDGE MARK C. FLEEGLE	:	Case No. CT2013-0011
	:	
Respondent	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Writ of Procedendo

JUDGMENT: Dismissed

DATE OF JUDGMENT: August 2, 2013

APPEARANCES:

For Respondent

For Petitioner

NO APPEARANCE

EUGENE B. MCCALL, Pro Se
#404-939
Pickaway Correctional Institution
P. O. BOX 209
Orient, OH 43146

Farmer, J.

{¶1} Petitioner, Eugene McCall, has filed a “Petition for the Issuance of a Writ of Procedendo” asking this Court to order Respondent, Judge Mark C. Fleegle, to rule on two outstanding motions in his trial court case. The first motion was filed on September 13, 2011 by Appellant in a pro se capacity and the second motion was filed on June 22, 2012 by counsel for Petitioner.

{¶2} The Supreme Court has held that a judge’s performance of the requested act makes the complaint in procedendo moot. *State ex rel. Hazel v. Bender*, 129 Ohio St.3d 496, 496, 954 N.E.2d 114, 115 (Ohio, 2011).

{¶3} Subsequent to the filing of the instant complaint, Respondent ruled on the issue raised in both outstanding motions in the underlying case. In turn, Petitioner has appealed the trial court’s decision on these motions to this Court which was assigned Case Number CT 2013-0014. Because Respondent has performed the act requested in the complaint, we dismiss the instant petition as moot.

By Farmer, J.

Gwin, P J. and

Wise, J. concur.

Hon. Sheila G. Farmer

Hon. W. Scott Gwin

Hon. John W. Wise

IN THE COURT OF APPEALS FOR MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

EUGENE B. MCCALL

Petitioner

-vs-

JUDGE MARK C. FLEEGLE

Respondent

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JUDGMENT ENTRY

CASE NO. 13-CA-8

For the reasons stated in our accompanying Memorandum-Opinion, the petition for writ of procedendo is dismissed as moot. Costs waived.

Hon. Sheila G. Farmer

Hon. W. Scott Gwin

Hon. John W. Wise