

**THE STATE EX REL. ROSE, APPELLANT, v. MCGINTY, JUDGE, APPELLEE.**

[Cite as *State ex rel. Rose v. McGinty*, 123 Ohio St.3d 86, 2009-Ohio-4050.]

*Procedendo and mandamus — Judgment denying writ affirmed — Appellant fails to contest all independent reasons given by appellate court for denying the writs.*

(No. 2009-0464 — Submitted August 11, 2009 — Decided August 18, 2009.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 92578,  
2009-Ohio-458.

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**Per Curiam.**

{¶ 1} This is an appeal from a judgment of the court of appeals denying a petition filed by appellant, Floyd Rose, for writs of procedendo and mandamus.

{¶ 2} We affirm the judgment of the court of appeals because Rose does not challenge all of the independent reasons given by that court to deny the writs. *State ex rel. Schmidt v. School Emps. Retirement Sys.*, 100 Ohio St.3d 317, 2003-Ohio-6086, 798 N.E.2d 1088, ¶ 5; *Stewart v. Corrigan*, 97 Ohio St.3d 80, 2002-Ohio-5316, 776 N.E.2d 103, ¶ 4. That is, Rose does not contest the propriety of the court of appeals' denial of the writs based on his failure to comply with Loc.App.R. 45(B)(1) of the Eighth District Court of Appeals. Moreover, Judge McGinty has now ruled on Rose's August 8, 2008 motion in Cuyahoga C.P. case No. CR-07-492008-B. "Neither procedendo nor mandamus will compel the performance of a duty that has already been performed." *State ex rel. Kreps v. Christiansen* (2000), 88 Ohio St.3d 313, 318, 725 N.E.2d 663.

Judgment affirmed.

MOYER, C.J., and PFEIFER, LUNDBERG STRATTON, O'CONNOR, O'DONNELL, LANZINGER, and CUPP, JJ., concur.

SUPREME COURT OF OHIO

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Floyd Rose, pro se.

William D. Mason, Cuyahoga County Prosecuting Attorney, and James E.  
Moss, Assistant Prosecuting Attorney, for appellee.

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