

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Robinson v. Adult Parole Auth.*, Slip Opinion No. 2018-Ohio-558.]

NOTICE

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SLIP OPINION NO. 2018-OHIO-558

**THE STATE EX REL. ROBINSON, APPELLANT, v. ADULT PAROLE AUTHORITY,
APPELLEE.**

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Mandamus—A magistrate’s decision, standing alone, is not a final, appealable order—Prior opinion withdrawn and cause dismissed for lack of final, appealable order.

(No. 2016-1181—Submitted May 16, 2017—Decided January 24, 2018.*)

APPEAL from the Court of Appeals for Franklin County, No. 16AP-284.

Per Curiam.

{¶ 1} Appellant, Damon Robinson, commenced this action in the Tenth District Court of Appeals seeking a writ of mandamus against appellee, Ohio Adult Parole Authority. The court of appeals referred the case to a magistrate, and on July 25, 2016, the magistrate purported to dismiss the petition sua sponte. On

*Reporter’s Note: This cause was decided on January 24, 2018, but was released to the public on February 15, 2018, subsequent to the resignation of Justice William M. O’Neill, who participated in the decision.

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November 30, 2017, we affirmed the judgment of the court of appeals. ___ Ohio St.3d ___, 2017-Ohio-8721, ___ N.E.3d ___.

{¶ 2} Upon further consideration, however, we conclude that we lacked jurisdiction to hear and decide the case. Proceedings before a magistrate are governed by Civ.R. 53, as expressly incorporated by Loc.R. 13(M)(1) of the Tenth District Court of Appeals. Under that rule, a “magistrate’s decision is not effective unless adopted by the court.” Civ.R. 53(D)(4)(a). For this reason, a magistrate’s decision, standing alone, is not a final, appealable order. *See State ex rel. Boddie v. Franklin Cty. 911 Admr.*, 135 Ohio St.3d 248, 2013-Ohio-401, 985 N.E.2d 1263. Because the court of appeals did not adopt the magistrate’s decision, Robinson never received a final, appealable order.

{¶ 3} We hereby withdraw the prior opinion and order it withdrawn from official publication. It therefore has no precedential value. *See In re Adoption of Ridenour*, 61 Ohio St.3d 319, 327, 574 N.E.2d 1055 (1991), fn. 6. We dismiss this appeal for lack of a final, appealable order.

Cause dismissed.

O’CONNOR, C.J., and FRENCH, O’NEILL, FISCHER, and DEWINE, JJ., concur.
O’DONNELL and KENNEDY, JJ., concur in judgment only.

Damon Robinson, pro se.

Michael DeWine, Attorney General, and George Horvath, Assistant Attorney General, for appellee.
