

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.	:	
ANGELA M. FORD, ESQ.	:	Case No. 2015-1470
	:	
<i>Relators,</i>	:	
	:	
v.	:	
	:	
HONORABLE ROBERT P. RUEHLMAN	:	
	:	In Prohibition And Mandamus
<i>Respondent.</i>	:	

RESPONDENT HONORABLE JUDGE ROBERT P. RUEHLMAN'S MOTION TO DISMISS COMPLAINT AND MOTION IN OPPOSITION TO RELATOR'S MOTION FOR EMERGENCY STAY AND EXPEDITED ALTERNATIVE WRIT

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MOTION

Respondent, Honorable Robert P. Ruehlman, Judge, Hamilton County Court of Common Pleas, through counsel, respectfully requests that this Court grant him the full twenty one days allowed under Rule 12.04 of the Ohio Supreme Court Rules of Practice to fully respond to the Original Action in Prohibition and Mandamus that was filed on September 4, 2015 by the Relator. The Complaint and accompanying records, motions, and case history are exceedingly voluminous. The Respondent was notified on September 8, 2015 that the action had been filed and was provided with two days, until September 10, 2015, to provide a response to the Motion for Emergency Stay and Complaint. A fair and adequate defense of the Respondent’s interests requires the full twenty one days to properly respond. However, if this Court does not wish to grant the Respondent the full twenty one days to respond, the Respondent, through counsel, moves this Court to grant dismissal of the Petition for a Writ of Prohibition and Mandamus and deny the Relator’s Motion For Emergency Stay and Expedited Alternative Writ as provided in S.Ct.Prac.R. 12.04 for reasons set out in the attached memorandum.

Respectfully,

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MEMORANDUM

A. Statement of the Case

The origin of the present case in Ohio began on January 6, 2015 in the Hamilton County Court of Common Pleas. *Chesley v. Ford*, Hamilton C.P. No. A1500067. The Plaintiff in that action, Stan Chesley, sought declaratory judgment and injunctive relief against Angela Ford, Esq., the Relator in the present action. The parties in the Ohio case have filed numerous motions and have had several hearings to determine what action Ms. Ford may take to enforce a Kentucky judgment in Ohio against Mr. Chesley. After over eight months, the court set the matter for a permanent injunction hearing on September 30, 2015. The Relator in the present action filed an Original Action in Prohibition and Mandamus on September 4, 2015. On that same day, Relators filed a Motion for Emergency Stay and Expedited Alternative Writ. Four days later, Relator Ford filed an Answer to the Motion for Declaratory Judgment and Injunctive Relief in Case No. A1500067 that is set for a hearing on September 30, 2015. Despite making several appearances over an eight month period, it is only now, when Judge Ruehlman finally

has the facts in front of him and is ready to hold a hearing that the Relator decides that there is an impending emergency and is attempting to circumvent the judicial process by taking the case out of the trial judge's hand. Inventing an emergency based on pure speculation should not be sufficient cause to prevent a trial judge from performing his sworn duty.

B. Argument

1. The Relator is not entitled to the requested emergency stay and alternative writ because the Relator has not established the need for this expedient relief.

The Relator filed a Motion for Emergency Stay and Expedited Alternative Writ based on a pending permanent injunction hearing scheduled for September 30, 2015 in front of Judge Ruehlman in the Hamilton County Court of Common Pleas. The Relator requests that this Court grant her extraordinary relief and pull the case from Judge Ruehlman based on the fact that Judge Ruehlman lacks jurisdiction and that the Relator will suffer irreparable harm if the stay is not granted. The issue of the trial court's jurisdiction is more thoroughly discussed in Section B.2. *infra*. As for the issue of irreparable harm, the Relator's claim is based on pure speculation.

The Relator claims that the Plaintiff in the underlying Ohio case, Stan Chesley, has failed to disclose attorney's fees that Mr. Chesley has earned in various cases across the country. The Relator cites the attorney's fees from two cases, even though the Relator admits that neither case has determined an exact dollar amount for Mr. Chesley's portion of the attorney's fees that are to be collected. The Relator further states that "[e]very day that passes allows Chesley to dissipate and transfer assets in an attempt to defeat the judgment" without providing any evidence that Mr. Chesley has taken such action. Respectfully, these are the exact types of factual issues that are appropriate for a trial judge to assess.

Further, the Relator does not provide a reason for why the emergency has just now arisen. The docket in Case No. A1500067 indicates that the case has been pending in Hamilton County

Common Pleas Court since January 6, 2015. The Relator, or her representative, has been active in this case for over eight months.¹ The Relator has had several opportunities to prevent Judge Ruehlman from acting if she believed that “every day that pass[ed]” allowed Mr. Chesley to avoid his obligation, but she never did. Now, on the eve of a hearing where the Relator could state her case in full (and appeal any unacceptable outcome) the Relator has decided that any further delay would cause her irreparable harm.

This Court is free to examine the factual determinations and decide whether emergency relief is appropriate. *State ex rel. Summit Cty. Republican Party Executive Commt. v. Brunner*, 117 Ohio St. 3d 1207, 2008-Ohio-904, 882 N.E.2d 918, ¶ 4 (denying request for emergency relief because the Court did not believe the cause warranted such relief). The trial judge has been presented with an extensive factual background and has jurisdiction to hear this case. The Relator has provided nothing more than bare allegations to prove that she is entitled to an emergency stay and expedited alternative writ. The Court should deny the Motion for Emergency Stay and Expedited Alternative Writ, and allow the trial court to carry out its duty. If the Relator is unhappy with the result, the Ohio court system provides a well-established procedure for appealing that result. The Relator should not be entitled to prevent Judge Ruehlman from carrying out his duty simply because she anticipates a bad result.

2. The Relator is not entitled to the requested writs of prohibition and mandamus because the trial court has jurisdiction.

The Relator claims that she is entitled to the requested writs of Prohibition and Mandamus because Judge Ruehlman is about to act without jurisdiction. “Mandamus and

¹ There appears to be some disagreement over when the Relator actually became active in the case; however, by the Relator’s own admission in paragraphs 40 and 41 of her Complaint, the Relator became active in the case by attempting to remove the case to federal court and by filing various motions to dismiss the initial complaint.

prohibition are extraordinary remedies, to be issued with great caution[.]” *State ex rel. Taylor v. Glasser*, 50 Ohio St.2d 165, 166, 364 N.E.2d 1, 2 (1977). In *State ex rel Tubbs Jones vs. Suster*, 84 Ohio St.3d 70, 701 N.E.2d 1002 (1998), the Supreme Court set out the following standards for the granting of a writ of prohibition:

In order for a writ of prohibition to issue, the relator must prove that (1) the lower court is about to exercise judicial authority, (2) the exercise of authority is not authorized by law, and (3) the relator possesses no other adequate remedy in the ordinary course of law if the writ of prohibition is denied. *State ex rel. Keenan v. Calabrese*, 69 Ohio St.3d 176, 178, 631 N.E.2d 119, 121 (1994).

The Court in *State ex rel Tubbs Jones vs. Suster*, supra, went on to explain:

Prohibition will not lie to prevent an anticipated erroneous judgment. *State ex rel. Heimann v. George*, 45 Ohio St.2d 231, 232, 344 N.E.2d 130, 131 (1976). However, we have created a limited exception in cases where there appears to be a total lack of jurisdiction of the lower court to act. Early cases referred to a “total want of jurisdiction” or to the court’s being “without jurisdiction whatsoever to act.” *State ex rel. Adams v. Gusweiler*, 30 Ohio St.2d 326, 329, 285 N.E.2d 22, 24 (1972) and paragraph two of the syllabus. Later cases defined this exception as a “‘patent and unambiguous’ lack of jurisdiction to hear a case.” *Ohio Dept. of Adm. Serv., Office of Collective Bargaining v. State Emp. Relations Bd.*, 54 Ohio St.3d 48, 51, 562 N.E.2d 125, 129 (1990); *State ex rel. Tollis v. Cuyahoga Cty. Court of Appeals*, 40 Ohio St.3d 145, 148, 532 N.E.2d 727, 729 (1988).

Therefore, in order for this Court to grant a writ of prohibition, this Court must find that (1) Respondent is about to exercise jurisdiction; (2) Respondent has a “patent and unambiguous” lack of jurisdiction to hear the case; and, (3) Relator has no adequate remedy at law. This is a difficult standard to meet by design.

In the present case, the Respondent, Judge Ruehlman, has set a permanent injunction hearing for September 30, 2015, so it is fair to say that the Respondent is about to exercise jurisdiction. However, the Relators have failed to establish that the Respondent has a “patent and unambiguous” lack of jurisdiction to hear this case. The Relators’ claim that Respondent Ruehlman lacks jurisdiction because: 1.) there is no justiciable controversy; 2.) there is a case

pending in a Kentucky court; and 3.) Judge Ruehlman's actions interfere with the Relator's statutory remedies.

A justiciable controversy exists when there is a genuine dispute "between parties having adverse legal interests of sufficient immediacy and reality[.]" *Burger Brewing Co. v. Liquor Control Comm.*, 34 Ohio St.2d 93, 97, 296 N.E.2d 261, 264 (1973). In the present case, there is a dispute between Mr. Chesley and Ms. Ford over the collection of assets located in Ohio to settle a judgment obtained in Kentucky. The intricate web of facts and law are properly before the trial court and the dispute is in the process of being resolved. This satisfies the low standard for a justiciable controversy.

While there may be a pending case in Kentucky, the underlying Ohio case was initiated in January 2015 and involves assets, plaintiffs and defendants in the state of Ohio. An Ohio Court is well within its rights and has jurisdiction to determine whether or not Ohio residents and property within Ohio are subject to the judgment of a sister state. Additionally, there are proper procedures for domesticating and enforcing a foreign judgment in Ohio as set forth in Revised Code sections 2329.021 *et seq.* An Ohio judge has jurisdiction to settle any dispute over how such laws are interpreted and enforced. The Relator suggests that the trial court has no jurisdiction because there is a pending case in Kentucky and they are entitled to certain statutory remedies. However, there is a dispute over how the foreign judgment and the statutory remedies should be applied to individuals domiciled in Ohio and property that is located in Ohio. Therefore, when the dispute was presented to Judge Ruehlman in January 2015, he had, and continues to have, jurisdiction to determine how to resolve these disputes to ensure that any foreign judgment and statutory remedies are carried out in accordance with Ohio law. Not only does Judge Ruehlman have jurisdiction over the present case, but none of the potential

jurisdictional issues that the Relator raises are so “patent and unambiguous” that they would warrant an extraordinary writ. As stated in the *Heimann* case, a court of common pleas has the power to determine its own jurisdiction, and prohibition will not lie even if the Relator believes that the Judge *might* make the incorrect decision. *Heimann*, 45 Ohio St.2d at 232. The Relator has the right to appeal any decision that Judge Ruehlman may hand down, and “prohibition is not a substitute for appeal.” *Id.* (quoting *State ex rel. Gilla v. Fellerhoff*, 44 Ohio St.2d 86, 88, 338 N.E.2d 522, 523 (1975)); *State ex rel. Toerner v. Common Pleas Court*, 28 Ohio St.2d 213, 277 N.E.2d 209 (1971).

3. The Relator is not entitled to the requested writs of prohibition and mandamus because the Relator has an adequate remedy at law.

Additionally, the Relator’s request for extraordinary writs should be dismissed because Ms. Ford has an adequate remedy at law: appealing to the First District Court of Appeals. In *State ex rel. Dannaheer v. Crawford*, 78 Ohio St. 3d 391, 393, 678 N.E.2d 549 (1997), this Court held:

Neither prohibition nor mandamus will lie where relator possesses an adequate remedy in the ordinary course of law. *State ex rel. Hunter v. Certain Judges of the Akron Mun. Court*, 71 Ohio St.3d 45, 46, 641 N.E.2d 722, 723 (1994). Absent a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction can determine its own jurisdiction, and a party challenging the court's jurisdiction has an adequate remedy by appeal. *State ex rel. Enyart v. O'Neill*, 71 Ohio St.3d 655, 656, 646 N.E.2d 1110, 1112 (1995).

There is an adequate remedy at law for Relator for her claims against Mr. Chesley. First of all, she can attend the September 30th permanent injunction hearing and win her case. However, even if the Relator receives an unfavorable decision following the September 30th permanent injunction hearing, she has the right to appeal that decision to the First District Court of Appeals. If unsuccessful in the First District, Ms. Ford can then present her case to the Ohio Supreme

Court for discretionary review. However, Ms. Ford is not entitled to forgo the well-established Ohio court system and jump to filing extraordinary writs simply because she does not want to bother with Ohio trial and appellate courts.

CONCLUSION

This Court should dismiss this case.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served upon each party of record in this case by U.S. mail on the 10th day of September, 2015 addressed to:

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