

[Cite as *State ex rel. Saghafi v. Celebrezze*, 2015-Ohio-1159.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102746

STATE EX REL., MEHDI SAGHAFI

RELATOR

vs.

JUDGE LESLIE ANN CELEBREZZE

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Prohibition
Order No. 483845

RELEASE DATE: March 23, 2015

ATTORNEY FOR RELATOR

David G. Weilbacher
1525 Leader Building
526 Superior Avenue
Cleveland, OH 44113

ATTORNEY FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor
9th Floor Justice Center
1200 Ontario Street
Cleveland, OH 44113

TIM McCORMACK, J.:

{¶1} Mehdi Saghafi (“Husband”) has filed a complaint for a writ of prohibition. Husband seeks to prevent Judge Leslie Ann Celebrezze from proceeding to trial in a divorce action, *Bakhtiar v. Saghafi*, Cuyahoga C.P. Domestic Relations No. DR-13-346931. For the following reasons, we decline to issue a writ of prohibition on behalf of Husband.

Facts

{¶2} On May 3, 2013, Husband filed an application in Lorain C.P. Probate No. 2013GI00040, to be appointed guardian of his wife, Fourough Bakhtiar (“Wife”). The application to be appointed guardian was premised on the claim that Wife was incompetent. On May 6, 2013, Wife filed a complaint for divorce in the Cuyahoga County Court of Common Pleas, Domestic Relations Division.

{¶3} On October 23, 2014, the Lorain County Probate Court appointed attorney Zachary Simonoff as guardian of the estate of Wife. On December 3, 2014, the Lorain County Probate Court issued a judgment authorizing Wife’s guardian “to proceed in the Cuyahoga County Domestic Relations case through to final divorce.” The Lorain County Probate Court opined “[t]hat the Cuyahoga County Court of Common Pleas, Domestic Relations Division, has issued support orders that have been ignored by [Husband], and that the Court will not enforce its orders unless the case proceeds.”

{¶4} On January 2, 2015, Husband filed an appeal in the Ninth Appellate District, of the order issued by the Lorain County Probate Court, which allowed the guardian to prosecute

the divorce action.¹ The appeal remains pending in the Ninth District. On March 18, 2015, Husband filed this complaint for a writ of prohibition premised upon the claim that

the Cuyahoga County Court of Common Pleas, Domestic Relations and the Hon. Leslie Ann Celebrezze, only have jurisdiction to proceed to trial if there is a complaining party to the divorce action willing and able to proceed. If there is not a complaining party to the divorce action willing and able to proceed, there is a patent and unambiguous lack of jurisdiction of the trial court to proceed to trial.

Legal Analysis

{¶5} A writ of prohibition is designed to prevent a tribunal from proceeding in a matter in which it is not authorized to hear and determine, or in which it seeks to usurp or exercise jurisdiction with which it has not been invested by law. *State ex rel. Doe v. Tracy*, 51 Ohio App.3d 198, 555 N.E.2d 674 (12th Dist.1988). It is well established that the purpose of a writ of prohibition is to prevent inferior courts and tribunals from usurping jurisdiction beyond that with which they have been granted by law. *State ex rel. White v. Junkin*, 80 Ohio St.3d 335, 686 N.E.2d 267 (1997). Where a court possesses general subject-matter jurisdiction over a pending action, a writ of prohibition will not issue to prevent an error of law. *State ex rel. Bell v. Pfeiffer*, 131 Ohio St.3d 114, 2012-Ohio-54, 961 N.E.2d 181; *State ex rel. Winnefeld v. Court of Common Pleas of Butler Cty.*, 159 Ohio St. 225, 112 N.E.2d 27 (1953). If a court patently and unambiguously lacks general subject-matter jurisdiction, a writ of prohibition will issue to correct the results of prior unauthorized actions. *State ex rel. Cordray v. Marshall*, 123 Ohio St.3d 229, 2009-Ohio-4986, 915 N.E.2d 633. However, if a court does not patently and unambiguously lack general subject-matter jurisdiction, prohibition will not issue and the issue of jurisdiction must be addressed through an appeal. *State ex rel. Bradford v. Trumbull Cty.*

¹An appeal does not operate as a stay of execution of the trial court's order until a stay of execution has been obtained pursuant to App.R. 7. *See* R.C. 2505.09.

Court, 64 Ohio St.3d 502, 1992-Ohio-132, 597 N.E.2d 116; *State ex rel. Pearson v. Moore*, 48 Ohio St.3d 37, 548 N.E.2d 945 (1990).

{¶6} In *Bank of Am., N.A. v. Kuchta*, 141 Ohio St.3d 75, 2014-Ohio-4275, 21 N.E.3d 1040, the Supreme Court of Ohio examined in detail the subject of jurisdiction and held that:

The general term “jurisdiction” can be used to connote several distinct concepts, including jurisdiction over the subject matter, jurisdiction over the person, and jurisdiction over a particular case. *Id.* at ¶ 11-12. The often unspecified use of this polysemic word can lead to confusion and has repeatedly required clarification as to which type of “jurisdiction” is applicable in various legal analyses. *See, eg., id.* at ¶ 33; *Barnes v. Univ. Hosps. of Cleveland*, 119 Ohio St.3d 173, 2008-Ohio-3344, 893 N.E.2d 142, ¶ 27; *In re J.J.*, 111 Ohio St.3d 205, 2006-Ohio-5484, 855 N.E.2d 851, ¶ 10-16. * * *

Subject-matter jurisdiction is the power of a court to entertain and adjudicate a particular class of cases. *Morrison v. Steiner*, 32 Ohio St.2d 86, 87, 290 N.E.2d 841 (1972). A court’s subject-matter jurisdiction is determined without regard to the rights of the individual parties involved in a particular case. *State ex rel. Tubbs Jones v. Suster*, 84 Ohio St.3d 70, 75, 1998 Ohio 275, 701 N.E.2d 1002 (1998); *Handy v. Ins. Co.*, 37 Ohio St. 366, 370 (1881). A court’s jurisdiction over a particular case refers to the court’s authority to proceed or rule on a case that is within the court’s subject-matter jurisdiction. *Pratts* at ¶ 12, [102 Ohio St.3d 81, 2004-Ohio-1980, 806 N.E.2d 992]. This latter jurisdictional category involves consideration of the rights of the parties. If a court possesses subject-matter jurisdiction, any error in the invocation or exercise of jurisdiction over a particular case causes a judgment to be voidable rather than void. *Id.* at ¶ 12.

* * *

A determination of standing necessarily looks to the rights of the individual parties to bring the action, as they may assert a personal stake in the outcome of the action in order to establish standing. *Ohio Pyro, Inc. v. Ohio Dept. of Commerce*, 115 Ohio St.3d 375, 2007-Ohio-5024, 875 N.E.2d 550, ¶ 27. Lack of standing is certainly a fundamental flaw that would require a court to dismiss the action, *Schwartzwald* at ¶ 40, [134 Ohio St.3d 13, 2012-Ohio-5017, 979 N.E.2d 1214] and any judgment on the merits would be subject to reversal on appeal. But a particular party’s standing, or lack thereof, does not affect the subject-matter jurisdiction of the court in which the party is attempting to obtain relief. * * *.

Kuchta at ¶ 18 - 23.

{¶7} In the case sub judice, we find that Judge Celebrezze possesses general subject-matter jurisdiction to determine all domestic relations matters. Judge Celebrezze sits as an elected judge of the Domestic Relations Court of Cuyahoga County. R.C. 3105.011 provides in pertinent part that: “The court of common pleas including divisions of courts of domestic relations, has full equitable powers and jurisdiction appropriate to the determination of all domestic relations matters.” Absent a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction can determine its own jurisdiction, which prevents this court from issuing a writ of prohibition. *State ex rel. White v. Junkin*, 80 Ohio St.3d 335, 688 N.E.2d 267 (1997); *State ex rel. Enyart v. O’Neil*, 71 Ohio St.3d 655, 646 N.E.2d 1110 (1995).

{¶8} We further find that Husband’s argument, in support of his claim for a writ of prohibition, is not based upon a lack of subject-matter jurisdiction, but based upon a lack of standing on the part of Wife to bring and prosecute an action in divorce. As succinctly stated by the Supreme Court of Ohio in *Kuchta* and *Schwartzwald*, a party’s lack of standing does not affect the subject-matter jurisdiction of the court in which the party is attempting to obtain relief.

Any meritorious challenge to whether Judge Celebrezze can proceed to judgment would merely make any judgment in that case voidable and thus subject to remedy by appeal rather than extraordinary writ. *See In re J.J.*, 111 Ohio St.3d 205, 2006-Ohio-5484, 855 N.E.2d 851, ¶ 10-16.

{¶9} Finally, we find that Husband’s complaint for a writ of prohibition is defective. Husband failed to comply with Loc.App.R. 45(B)(1)(a), which requires that his complaint contain a sworn affidavit that specifies the details of his claim. A simple statement that the affiant has reviewed the complaint and that the contents of the complaint are true and accurate does not ratify the mandatory requirements of Loc.App.R. 45(B)(1)(a). *State ex rel. Hopson v.*

Cuyahoga Cty. Court of Common Pleas, 135 Ohio St.3d 456, 2013-Ohio-911, 989 N.E.2d 49;
State ex rel. Leon v. Cuyahoga Cty. Court of Common Pleas, 123 Ohio St.3d 124,
2009-Ohio-4688, 914 N.E.2d 402.

{¶10} Accordingly, we enter judgment on behalf of Judge Celebrezze. Costs to Husband. The court directs the clerk of courts to serve all parties with notice of this judgment and the date of its entry upon the journal as required by Civ.R. 58(B).

{¶11} Writ denied.

TIM McCORMACK, JUDGE

EILEEN T. GALLAGHER, J., and
MELODY J. STEWART, J., CONCUR