

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio ex rel. William W. Bridge, III, :
Relator, :
v. : No. 11AP-140
Franklin County Court of Common Pleas : (REGULAR CALENDAR)
and The Honorable Richard S. Sheward,
Judge, Franklin County Court of Common :
Pleas, :
Respondents. :
:

D E C I S I O N

Rendered on December 20, 2011

William W. Bridge, III, pro se.

Ron O'Brien, Prosecuting Attorney, and *Jeffrey C. Rogers*,
for respondents.

IN MANDAMUS
ON OBJECTIONS TO THE MAGISTRATE'S DECISION

BROWN, J.

{¶1} Relator, William W. Bridge, III, has filed this original action requesting that this court issue a writ of prohibition prohibiting respondent, the Honorable Richard S. Sheward ("Judge Sheward"), a judge of the Franklin County Court of Common Pleas, respondent, to refrain from exercising any jurisdiction to hear and determine the issues

raised in the underlying case of *Speeds Elec. Serv., Inc. v. Nations Constr., LLC* (Mar. 24, 2009), Franklin C.P. No. 07CVH-07-9820.

{¶2} Pursuant to Civ.R. 53(C) and Loc.R. 12(M) of the Tenth District Court of Appeals, this matter was referred to a magistrate who issued the appended decision, including findings of fact and conclusions of law. The magistrate recommended that this court deny relator's request for a writ of prohibition and grant respondents' motion for summary judgment. Relator has filed objections to the magistrate's decision.

{¶3} Relator essentially presents two main arguments. In the first argument, relator contends that the magistrate erred when she rejected his argument that the Franklin County Municipal Court lacked subject-matter jurisdiction over the matter. Relator contends Speeds Electric Service, Inc. ("Speeds"), filed two separate small actions against Nations Construction, LCC ("Nations"), in the Franklin County Municipal Court, one seeking \$2,775 and the other seeking \$2,970, that together exceeded the \$3,000 jurisdictional limits of the municipal court. Because these initial filings by Speeds exceeded the jurisdictional limits of the municipal court in the aggregate, relator argues, the municipal court was required to dismiss the two cases and not transfer the cases to the Franklin County Common Pleas Court; thus, the common pleas court did not have subject-matter jurisdiction. In support of his proposition, relator cites *Lance Langan Water Jetting, Inc. v. Tiger Gen., Inc.*, 9th Dist. No. 05CA0018-M, 2005-Ohio-4541, and claims the circumstances in that case are nearly identical to those in the present case.

{¶4} Notwithstanding the magistrate's conclusions that respondents' motion for summary judgment should be granted because relator failed to meet the standard for the issuance of a writ of prohibition, and the issues raised by relator herein have already been litigated in a prior action, we find relator's argument has no merit. *Lance Langan* is

inapposite to the facts here. In *Lance Langan*, the plaintiff filed a complaint in the municipal court, alleging two counts and seeking damages of \$10,000 for each count. The municipal court consolidated the plaintiff's action with two small claims cases filed earlier by the defendant. The magistrate granted judgment in favor of the plaintiff in the amount of \$5,761.76 on its complaint and judgment in favor of the plaintiff on the defendant's two small claims complaints. After the defendant filed objections, the trial court issued its judgment entry, rendering judgment on the plaintiff's complaint in favor of the defendant in the amount of \$6,207.38, and further rendered judgment on the defendant's small claims complaints in favor of the defendant in the amount of \$4,200.

{¶5} On appeal, the appellate court found the trial court had no jurisdiction to consider the plaintiff's complaint because, under R.C. 1901.17, a municipal court has jurisdiction only in those cases in which the amount claimed by any party does not exceed \$15,000, and the amount of damages sought by the plaintiff in the two claims in its complaint was \$20,000. Thus, the court concluded the trial court lacked subject-matter jurisdiction over the plaintiff's complaint and had no authority to consolidate the defendant's two small claims cases with a case which it had no jurisdiction to consider.

{¶6} However, in the present case, the two claims raised by Speeds in its municipal court cases were in two totally separate cases filed under separate case numbers involving electrical services performed by Speeds at two different locations. In *Lance Langan*, the two claims raised by the plaintiff were in a single complaint; thus, the court there found that the amounts sought for each claim combined to exceed the jurisdictional monetary limits for the municipal court. Relator cites no authority for the proposition that the municipal court here was required to aggregate the damages sought in the two separate small claims cases.

{¶7} Furthermore, we also note that, although the record before this court includes a number of filings from both the common pleas action and the municipal court actions, it is far from containing the complete filings from both courts, thereby severely compromising our ability to review and fully comprehend the nature and course of the proceedings in those courts. Regardless, it appears from the record before us that Speeds' two small claims actions were never consolidated by the municipal court. Both case dockets indicate that, on June 11, 2007, the magistrate in the municipal court declined to rule on Nations' motion to consolidate. Therefore, from the record before us, it appears that Speeds' two small claims court actions were two completely different actions, unlike the two claims in the single complaint filed in *Lance Langan*. Thus, relator fails to present any authority for the proposition that the municipal court was required to add together the amounts claimed in Speeds' two separate actions in order to determine whether Speeds' actions were under the jurisdictional limit. For these reasons, we find this argument without merit.

{¶8} Relator next argues that the common pleas court lacked subject-matter jurisdiction because the municipal court did not have authority to transfer the matter to the common pleas court. Relator maintains that the municipal court may only transfer a municipal court case pursuant to a certification under Civ.R. 13(J), which provides for certification to a common pleas court whenever "a counterclaim, cross-claim, or third-party claim exceeds the jurisdiction" of the municipal court. Relator maintains there was no counterclaim in the present case pursuant to which the municipal court could have initiated a transfer.

{¶9} Initially, the record is inadequate to determine why the municipal court transferred the matters to the common pleas court and why the common pleas court

accepted jurisdiction of both cases. There are no pleadings included in the current record that conclusively set forth these reasons. However, although relator claims there were no counterclaims filed in the municipal court cases that would have permitted a certification to the common pleas court, in the July 22, 2009 magistrate's decision on attorneys' fees and exemplary damages, the magistrate stated "there is nothing novel or difficult in regard to the claims of the Defendants. In fact counterclaims exceeding the limit of the Municipal Court's jurisdiction happen daily." This finding suggests that Nations did, in fact, file a counterclaim in the municipal court exceeding the limits of the court's jurisdiction, thereby prompting the transfer to the common pleas court. Also, the municipal court docket included in the record before us indicates that one of the cases was transferred from the municipal court to the common pleas court in July 2007, only for the common pleas court to reject the transfer in August 2008 and remand the matter to the municipal court pursuant to Loc.R. 9.04, with the notation, "COUNTERCLAIM DISMISSED W/O PREJ." Loc.R. 9.04 provides that, prior to the clerk's accepting a case transferred from the municipal court, "in which the demand contained in the counterclaim or cross-claim exceeds the monetary jurisdiction of that court," the counterclaimant or cross-claimant must post security for costs, and if that party fails to do so, the case shall be remanded to the municipal court. Thus, this also suggests a counterclaim was, in fact, filed in the municipal court cases. Regardless, the fact that relator has failed to provide this court a sufficient record in support of his writ is fatal to any claim that respondents are about to exercise power that is unauthorized by law. Therefore, we find this argument without merit.

{¶10} We note that the magistrate concluded that res judicata prevented relator from obtaining relief in the current action because he had previously raised the matter of

subject-matter jurisdiction in *State ex rel. Bridge v. Franklin Cty. Court of Common Pleas*, 10th Dist. No. 09AP-414, 2010-Ohio-2904. Although relator did raise some jurisdictional arguments in the prior case that are identical to some of the jurisdictional arguments raised in the present matter, relator did not raise, in the prior case, the two jurisdictional arguments addressed above. Therefore, although we adopt the magistrate's decision, we do not adopt any finding that all of relator's claims in the present case were barred by res judicata.

{¶11} After an examination of the magistrate's decision, an independent review of the record pursuant to Civ.R. 53, and due consideration of relator's objections, we overrule the objections and find that the magistrate sufficiently discussed and determined the issues raised, with the exception of the issue of res judicata, to the extent noted above. Accordingly, as to all other findings and conclusions of law contained in the magistrate's decision, we adopt those as our own and deny relator's writ of prohibition and grant respondents' motion for summary judgment. Furthermore, as to any of relator's motions still pending, we deny those motions.

Objections overruled; motion for summary judgment granted; writ of prohibition denied.

SADLER and CONNOR, JJ., concur.

APPENDIX

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio ex rel. William W. Bridge, III, :
Relator, :
v. : No. 11AP-140
Franklin County Court of Common Pleas : (REGULAR CALENDAR)
and The Honorable Richard S. Sheward, :
Judge Franklin County Court of Common :
Pleas, :
Respondents. :
:

MAGISTRATE'S DECISION

Rendered on July 29, 2011

William W. Bridge, III, pro se.

Ron O'Brien, Prosecuting Attorney, and *Patrick J. Piccininni*,
for respondents.

IN PROHIBITION
ON MOTION FOR SUMMARY JUDGMENT

{¶12} Relator, William W. Bridge, III, has filed this original action requesting that this court issue a writ of prohibition ordering respondent the Honorable Richard S. Sheward ("respondent" or "Judge Sheward"), a judge of the Franklin County Court of Common Pleas, to refrain from exercising any jurisdiction to hear and determine the

issues raised in the underlying case of *Speeds Elec. Serv., Inc. v. Nations Constr., LLC v. William W. Bridge, III*, (Mar. 24, 2009), Franklin C.P. No. 07 CVH 07-9820, Judgment Entry.

Findings of Fact:

{¶13} 1. The facts which give rise to the current action have remained the same and were set forth by this magistrate in *State ex rel. Bridge, III v. Franklin County Court of Common Pleas* (June 30, 2009), 10th Dist. No. 09AP-414 (Magistrate's Decision). Relator sought a writ of prohibition to stop Judge Sheward from conducting any further proceedings. As this magistrate noted at that time, the underlying common pleas court action involves a breach of contract that existed between the parties. Speeds Electric Service, Inc. ("Speeds") filed an action against Nations Construction, LLC ("Nations") in July 2007. Nations filed an answer and counterclaim to which Speeds filed a counterclaim bringing relator into the action.

{¶14} Thereafter, relator filed a motion to dismiss him as a party to the underlying breach of contract action.

{¶15} A hearing was held before Judge Sheward on March 4, 2009. At that time, Judge Sheward denied relator's motion to dismiss and entered a default judgment against relator in the amount of \$5,745. Judge Sheward also ordered that a hearing be held to determine the amount of attorney fees and exemplary damages to be awarded. This judgment entry was filed March 24, 2009.

{¶16} Relator filed a notice of appeal from the March 24, 2009 judgment entry in this court.

{¶17} On May 13, 2009, this court entered a journal entry of dismissal granting the motions of Speeds and Nations finding that relator's appeal was premature since the issue of damages had not yet been determined. That entry provided:

Appellee's May 24, 2009 motion to dismiss is granted and this appeal is dismissed as premature, the issue of damages not having been determined by the trial court. The clerk of this court shall re-docket the notice of appeal, with no additional filing deposit, at such time and after the trial court determines the damages issue.

See *Speeds Elec. Serv., Inc. v. Nations Constr., LLC v. Bridge, III* (May 13, 2009), 10th Dist. No. 09AP-393.

{¶18} Prior to this court's May 13, 2009 dismissal of relator's appeal, relator filed a complaint for a writ of prohibition arguing that the trial court clearly and unambiguously lacks both subject matter and personal jurisdiction over him. See *State ex rel. Bridge, III v. Franklin County Court of Common Pleas* (June 25, 2010), 10th Dist. No. 09AP-414.

{¶19} Ultimately, this court denied relator's request for a writ of prohibition and dismissed the case.

{¶20} 2. Following this court's dismissal, the trial court issued a new order, dated May 5, 2010, again ruling against relator.

{¶21} 3. Relator appealed the May 5, 2010 order to this court. *Speeds Elec. Serv. v. Nations Constr., LLC (Bridge)* (Sept. 15, 2010), 10th Dist. No. 10AP-525.

{¶22} 4. On September 15, 2010, this court dismissed relator's appeal, stating:

A review of the trial court's May 5, 2010 entry reveals that the judgment does not contain the amount recommended by the magistrate for attorney fees and expenses. Failure to include the amount of the judgment in the trial court's order renders the May 5, 2010 entry not a final order. *Harkai v. Scherba Indus., Inc.* (2000), 136 Ohio App.3d 211. This

appeal is, accordingly, *sua sponte* dismissed for lack of a final, appealable order. All pending motions are denied as moot.

{¶23} 5. Pursuant to this court's entry of September 15, 2010, the trial court issued a new judgment entry dated October 4, 2010. At this time, the trial court addressed the deficiencies of its prior orders noted by this court's dismissals of relator's appeal. In its final appealable order, the trial court stated:

ORDERED, ADJUDGED, and DECREED that the Court, following its own independent review of the entire record, hereby **ADOPTS** the findings and conclusions of the Magistrate's Decision issued on July 21, 2009, and makes those same findings and conclusions part of the judgment of this court; it is further

ORDERED, ADJUDGED, and DECREED that judgment is entered in favor of Plaintiffs and against Defendant William W. Bridge, III, for legal fees and costs in the amount of \$34,558.01, and that Defendant William W. Bridge, III, shall pay the costs of this action.

This is a final appealable order and no just cause for delay. The Clerk is directed to serve notice of this judgment on all parties hereto in accordance with Civ.R. 58.

(Emphasis sic.)

{¶24} 6. Although the trial court's October 4, 2010 judgment entry constituted a final appealable order, relator failed to file a notice of appeal from that judgment entry.

{¶25} 7. Thereafter, Speeds Electric sought to enforce the judgment against relator to recover the amounts due pursuant to the October 4, 2010 judgment entry.

{¶26} 8. On March 15, 2011, the trial court overruled various motions filed by relator, and granted motions filed by Speeds Electric to enforce collections and discovery

and further ordered relator herein to attend a Judgment Debtor Examination and sanctioned relator. The entry concludes as follows:

ORDERED, ADJUDGED, and DECREED that, as a sanction for William W. Bridge, III, failing to appear for the duly scheduled deposition scheduled for June 29, 2010, and for failing to appear for the duly scheduled Judgment Debtor Examination scheduled for August 6, 2010, and December 3, 2010, Plaintiff is awarded the sum of \$7,162.25; it is further

ORDERED, ADJUDGED, and DECREED that Defendant William W. Bridge, III, shall pay the costs of this action and this is a final appealable order and no just cause for delay; the Clerk is directed to serve notice of this judgment on all parties hereto in accordance with Civ.R. 58.

IT IS SO ORDERED.

{¶27} 9. Following the trial court's issuance of the above judgment entry against him, relator filed this prohibition action on February 14, 2011, again asserting that the underlying court proceedings are void due to a lack of personal jurisdiction and that the trial court must be stopped from proceeding with any further action.

{¶28} 10. On April 1, 2011, relator filed a supplemental complaint for a writ of prohibition.

{¶29} 11. On April 6, 2011, respondent filed a motion to dismiss relator's complaint, as well as his supplemental complaint for failure to state a claim upon which relief could be granted or, in the alternative, a motion for summary judgment pursuant to Civ.R. 56.

{¶30} 12. This magistrate treated the motion as one for summary judgment and notice of summary judgment hearing was mailed to the parties.

{¶31} 13. After permitting relator numerous extensions, relator filed a brief in opposition to respondent's motion for summary judgment.

{¶32} 14. The matter is currently before the magistrate for determination.

Conclusions of Law:

{¶33} There are two reasons why it is this magistrate's decision that this court should grant respondent's motion for summary judgment: (1) he cannot meet the standard for the issuance of a writ of prohibition, and (2) the issue relator raises here has already been litigated.

{¶34} A writ of prohibition is an extraordinary judicial writ, the purpose of which is to restrain inferior courts and tribunals from exceeding their jurisdiction. *State ex rel. Tubbs Jones v. Suster* (1998), 84 Ohio St.3d 70. A writ of prohibition is customarily granted with caution and restraint, and is issued only in cases of necessity arising from the inadequacy of other remedies. *Id.* In order to be entitled to a writ of prohibition, relator must establish that: (1) respondent is about to exercise judicial or quasi-judicial powers; (2) the exercise of the power is unauthorized by law; and (3) the denial of the writ will cause injury for which no other adequate remedy in the ordinary course of law exists. *State ex rel. Henry v. McMonagle* (2000), 87 Ohio St.3d 543.

{¶35} At this time, relator is challenging the action respondent has taken as set forth in the March 15, 2011 judgment entry. In essence, the action which relator wishes to stop has already occurred. Respondent has issued a judgment entry which permits Speeds Electric to take action to collect the debt which the trial court has determined relator owes. As such, relator cannot meet the first requirement for a writ of prohibition because respondent is not about to exercise judicial or quasi-judicial power.

{¶36} Second, relator's argument that the trial court is not authorized to proceed is premised on his continuing argument that the trial court patently and unambiguously lacks jurisdiction over the action. In *State ex rel. Bridge, III v. Franklin County Court of Common Pleas* (June 25, 2010), 10th Dist. No. 09AP-414, this court has already determined that the trial court clearly has subject-matter jurisdiction over a claim for a breach of contract and that respondent does not patently and unambiguously lack jurisdiction over the underlying action.

{¶37} Further, relator never filed a notice of appeal from the October 4, 2010 judgment entry which entered judgment in favor of Speeds Electric against relator and ordering him to pay plaintiffs legal fees and costs in the amount of \$34,558.01. Relator had an alternative remedy at law—he could have filed a notice of appeal from the October 4, 2010 judgment entry against him. Relator failed to do so. Because he had an alternative remedy at law, he cannot meet the third requirement for the issuance of a writ of prohibition.

{¶38} The second reason this court should grant summary judgment in favor of respondent is that this court has already answered the issue which relator is again bringing before this court. This court has determined that the trial court has subject-matter jurisdiction over a claim for breach of contract and that the trial court did not patently and unambiguously lack jurisdiction over the underlying action. See *Bridge*, 10th Dist. No. 09AP-414. The doctrine of "issue preclusion" applies here. The issue preclusion doctrine bars a party in one case from relitigating any issue that was (1) litigated and (2) resolved by a final judgment in another case, and (3) in which that party participated. *Blonder-Tongue Laboratories, Inc. v. Univ. of Illinois Found.* (1971), 402

U.S. 313, 91 S.Ct. 1434, and *Goodson v. McDonough Power Equip., Inc.* (1983), 2 Ohio St.3d 193.

{¶39} Because relator cannot meet the standard for the issuance of a writ of prohibition and because the issue raised herein has been litigated previously, it is this magistrate's decision that this court deny relator's request for a writ of prohibition and grant respondent's motion for summary judgment.

/s/ Stephanie Bisca Brooks
STEPHANIE BISCA BROOKS
MAGISTRATE

NOTICE TO THE PARTIES

Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).