

SUPREME COURT OF OHIO

State ex rel. Nalls v. Russo

96 Ohio St. 3d 410 (Ohio 2002) · Decided October 2, 2002

SUMMARY

The Ohio Supreme Court affirmed the denial of writs of prohibition, mandamus, and procedendo sought by Nichole Nalls in a juvenile abuse and dependency proceeding. The court held that the juvenile judge and magistrate had basic jurisdiction, that any alleged defects in the order of reference or magistrate’s decision were not jurisdictional, and that adequate remedies existed through objections and appeal. The court also found no undue delay warranting procedendo.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Douglas; Resnick; F.E. Sweeney; Pfeifer; Cook; Lundberg Stratton
JURISDICTION	Ohio
DECIDED	October 2, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal as of right from a judgment of the Cuyahoga County Court of Appeals granting appellees' motion for summary judgment and denying writs of prohibition, mandamus, and procedendo.
STANDARD OF REVIEW	Extraordinary writ relief requires the relator to establish the applicable legal entitlement and the absence of an adequate remedy in the ordinary course of law. Prohibition requires a patent and unambiguous lack of jurisdiction; mandamus and procedendo are unavailable when an adequate legal remedy exists.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	Nichole D. Nalls v. Joseph F. Russo, Mark R. Majer, Peter M. Sikora

TOPICS

- writ of certiorari
- appellate procedure
- civil procedure
- standard of review
- subject matter jurisdiction

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the juvenile court judge and magistrate patently and unambiguously lacked jurisdiction because the magistrate's authority was based on a general order of reference rather than a case-specific order.
2. Whether the failure to file a separate magistrate's decision under Juv.R. 40(E)(1) created a jurisdictional defect warranting prohibition.
3. Whether mandamus could compel the juvenile court clerk to strike the challenged entry from the records.
4. Whether procedendo could compel the magistrate to issue a separate decision and the clerk to serve it on the parties.

HOLDINGS

1. A general, journalized order of reference authorizing a magistrate to hear and recommend dispositions in cases assigned by the juvenile court is sufficient under Juv.R. 40; the rule does not require a more specific case-by-case journalized order.
2. Any failure to file a separate magistrate's decision under Juv.R. 40(E)(1) was, at most, an error subject to correction by objections and appeal, not a patent and unambiguous loss of jurisdiction supporting prohibition.
3. Prohibition will not issue as a substitute for appeal to review mere errors in judgment when the respondent court has basic subject-matter jurisdiction and the relator has an adequate legal remedy.
4. Mandamus was unavailable because Nalls had adequate remedies through timely objections and appeal and therefore could not establish the absence of an adequate remedy at law.
5. Procedendo was unavailable because Nalls had an adequate legal remedy and had not shown undue delay warranting extraordinary relief.

KEY QUOTATIONS

“Prohibition will not issue as a substitute for appeal to review mere errors in judgment.” (at 414)

FACTUAL BACKGROUND

The Cuyahoga County Department of Children and Family Services removed Darin Nalls from his mother's home after another child died while in the mother's custody. The agency filed an abuse and dependency complaint seeking legal custody for Darin's father. A juvenile court judge and magistrate jointly signed an entry adjudicating Darin dependent, and the mother challenged the magistrate's authority and the form of the entry through extraordinary-writ proceedings.

PROCEDURAL HISTORY

The Cuyahoga County Department of Children and Family Services filed an abuse and dependency complaint in the juvenile division of the Cuyahoga County Court of Common Pleas. After a jointly signed entry adjudicated

the child dependent, Nalls sought extraordinary writs in the court of appeals, arguing that the juvenile judge and magistrate lacked jurisdiction and that the clerk should strike the entry or issue a separate magistrate's decision. The court of appeals granted summary judgment for appellees and denied the writs; the Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Cleveland Elec. Illum. Co. v. Cuyahoga Cty. Court of Common Pleas, 88 Ohio St. 3d 447, 727 N.E.2d 900 (2000)
- White v. White, 50 Ohio App. 2d 263, 362 N.E.2d 1013 (1977)
- Ordway v. Ordway (Dec. 30, 1998), Wayne App. No. 97CA006947, 1999 WL 1789
- In re Morales (Apr. 12, 2001), Cuyahoga App. No. 78271, 2001 WL 370637
- Davis v. Reed (Aug. 31, 2000), Cuyahoga App. No. 76712, 2000 WL 1231462
- State ex rel. Banc One Corp. v. Walker, 86 Ohio St. 3d 169, 172, 712 N.E.2d 742 (1999)
- In re Bortmas (Oct. 15, 1999), Trumbull App. No. 98-T-0147, 1999 WL 959842
- Swain v. Swain (Nov. 22, 2000), Summit App. No. 20048, 2000 WL 1729472
- State ex rel. Shimko v. McMonagle, 92 Ohio St. 3d 426, 751 N.E.2d 472 (2001)
- Brooks v. Gaul, 89 Ohio St. 3d 202, 729 N.E.2d 752 (2000)
- State ex rel. Gaydosh v. Twinsburg, 93 Ohio St. 3d 576, 757 N.E.2d 357 (2001)
- State ex rel. Dannaher v. Crawford, 78 Ohio St. 3d 391, 678 N.E.2d 549 (1997)
- State ex rel. Miley v. Parrott, 77 Ohio St. 3d 64, 671 N.E.2d 24 (1996)
- State ex rel. Luna v. Huffman, 74 Ohio St. 3d 486, 659 N.E.2d 1279 (1996)
- Erb v. Erb, 65 Ohio App. 3d 507, 584 N.E.2d 807 (1989)

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