

SUPREME COURT OF OHIO

State ex rel. Halder v. Fuerst

118 Ohio St. 3d 142 (Ohio 2008) · Decided April 30, 2008

SUMMARY

The Ohio Supreme Court affirmed the denial of a writ of mandamus seeking to compel a clerk of courts to serve notice of a judgment denying a motion for relief from judgment. The court held that service had already been completed by mailing notice to the party's last provided address and that the party had adequate remedies at law, including delayed appeal and a motion for relief from judgment.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Pfeifer; Lundberg Stratton; O’Connor; O’Donnell; Lanzinger; Cupp
JURISDICTION	Ohio
DECIDED	April 30, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Haider sought a writ of mandamus in the Cuyahoga County Court of Appeals to compel the county clerk to serve notice of the denial of his motion for relief from judgment. The court of appeals granted the clerk's motion for summary judgment and denied the writ. Haider appealed to the Supreme Court of Ohio.
STANDARD OF REVIEW	The court reviewed whether Haider was entitled to the extraordinary remedy of mandamus and whether the court of appeals properly granted summary judgment. Mandamus was unavailable because the requested act had already been performed and, alternatively, because Haider had adequate remedies in the ordinary course of law.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Biswanath Haider v. Gerald E. Fuerst, Cuyahoga County Clerk of Courts

TOPICS

- appellate procedure
- civil procedure
- summary judgment
- remedies

PRACTICE AREAS

civil procedure

mandamus

appellate procedure

QUESTIONS PRESENTED

1. Whether mandamus could compel the clerk to serve notice of a judgment when the clerk had already mailed notice to the appellant's last address of record.
2. Whether the clerk was required to discover and update a pro se litigant's changed address without formal notification from the litigant.
3. Whether mandamus was available when the appellant had adequate remedies, including delayed appeal and a motion for relief from judgment, to challenge the claimed lack of notice.

HOLDINGS

1. Mandamus will not issue to compel an act that has already been performed. Because the clerk mailed the judgment to Haider's last address provided to the court, service was completed under the applicable civil rules.
2. A party bears the burden of formally notifying the court of a change of address; the clerk is not required to search the record to determine whether the party's address has changed. This obligation applies equally to pro se litigants.
3. Even if the clerk had not properly served notice, Haider was not entitled to mandamus because delayed appeal and a motion for relief from judgment provided adequate remedies in the ordinary course of law.

KEY QUOTATIONS

“Mandamus will not issue to compel an act that had already been performed.” (¶ 5)

“party bears the burden of formally notifying the court of a change of address; the clerk is not charged with the duty of perusing the record to ensure that a party’s mailing address has not changed.” (¶ 6)

“he is not entitled to the requested extraordinary relief in mandamus, because he has or had adequate remedies in the ordinary course of law by delayed appeal and motion for relief from judgment to raise such a claim.” (¶ 7)

FACTUAL BACKGROUND

The common pleas court denied Haider's motion for relief from judgment on November 29, 2006. The clerk mailed notice of the judgment to Haider's last address of record, although Haider had been incarcerated since June 2006 at a different address. Haider later received a certified copy of the judgment and requested that the clerk update his address.

PROCEDURAL HISTORY

The common pleas court denied Haider's motion for relief from judgment on November 29, 2006, and the clerk mailed notice to Haider's last address of record. Haider later received a certified copy of the judgment and then

sought mandamus in the court of appeals. The court of appeals granted summary judgment for the clerk and denied the writ; the Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Madsen v. Foley Jones, 106 Ohio St. 3d 178, 2005-Ohio-4381, 833 N.E.2d 291, ¶ 11
- State ex rel. Hughes v. Celeste, 67 Ohio St. 3d 429, 431, 619 N.E.2d 412 (1993)
- State ex rel. Smith v. Fuerst, 89 Ohio St. 3d 456, 457, 732 N.E.2d 983 (2000)
- Robb v. Smallwood, 165 Ohio App. 3d 385, 2005-Ohio-5863, 846 N.E.2d 878, ¶ 11
- Marshall v. Staudt, Stark App. No. 1998CA00177, 1999 WL 100373, *3 (Feb. 1, 1999)
- Nalbach v. Cacioppo, Trumbull App. No. 2001-T-0062, 2002 WL 32704, *6 (Jan. 11, 2002)
- State ex rel. Bortoli v. Dinkelacker, 105 Ohio St. 3d 133, 2005-Ohio-779, 823 N.E.2d 448, ¶ 3
- State ex rel. Ahmed v. Costine, 103 Ohio St. 3d 166, 2004-Ohio-4756, 814 N.E.2d 865, ¶ 5