

SUPREME COURT OF OHIO

State ex rel. Poulton v. Cottrill

2016-Ohio-5789 (Ohio 2016) · No. 2015-1755 · Decided September 14, 2016

SUMMARY

The Supreme Court of Ohio affirmed the dismissal of Adam C. Poulton’s petition for a writ of procedendo because the respondent judge had already ruled on his motion to vacate or set aside his conviction. The court held that procedendo could not compel a duty already performed and that Poulton had an adequate remedy through an appeal of the ruling.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, Chief Justice; Paul E. Pfeifer, Justice; Terrence O'Donnell, Justice; Lanzinger, Justice; Judy French, Justice; Maureen O'Neill, Justice; Kennedy, Justice
JURISDICTION	Ohio
DECIDED	September 14, 2016
DOCKET	2015-1755
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from the dismissal of a petition for a writ of procedendo by the Court of Appeals for Muskingum County.
STANDARD OF REVIEW	The Supreme Court applied the legal criteria governing entitlement to a writ of procedendo and reviewed the dismissal of the petition.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	Adam C. Poulton v. Kelly J. Cottrill, Judge

TOPICS

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QUESTIONS PRESENTED

1. Whether a writ of procedendo may issue to compel a judge to rule on a motion after the judge has already ruled on it.
2. Whether Poulton had an adequate remedy in the ordinary course of law through an appeal from the judge's entry.
3. Whether Poulton was entitled to default judgment because the appellee allegedly failed to file a merit brief.
4. Whether oral argument was warranted in the direct appeal.

HOLDINGS

1. A writ of procedendo is unavailable to compel performance of a duty that the judge has already performed; because Judge Cottrill ruled on Poulton's motion, the procedendo petition was moot and properly dismissed.
2. An appeal from the entry ruling on Poulton's motion was an adequate remedy in the ordinary course of law and independently precluded a writ of procedendo.
3. Default judgment was denied because Judge Cottrill timely filed a merit brief and Poulton's brief did not reasonably appear to sustain reversal.
4. Oral argument was denied because the case involved a straightforward application of procedendo criteria and did not present the circumstances warranting discretionary oral argument.

KEY QUOTATIONS

“To be entitled to a writ of procedendo, Poulton must show a clear legal right to require the court to proceed, a clear legal duty on the part of the court to proceed, and the lack of an adequate remedy in the ordinary course of the law.” (¶ 2)

“A writ of procedendo is therefore inappropriate. Moreover, Poulton had an adequate remedy in the ordinary course of the law by way of appeal of the entry.” (¶ 4)

FACTUAL BACKGROUND

Poulton sought a writ of procedendo to compel Judge Cottrill to rule on his motion to vacate or set aside his criminal conviction. Judge Cottrill had already ruled on the motion, although Poulton was dissatisfied with the entry and argued that it lacked findings of fact and conclusions of law.

PROCEDURAL HISTORY

Poulton petitioned the Fifth District Court of Appeals for a writ requiring Judge Cottrill to rule on his motion to vacate or set aside his conviction. The court of appeals dismissed the petition because the judge had ruled on the motion. The Supreme Court of Ohio affirmed and denied Poulton's motions for default judgment and oral argument.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Sherrills v. Cuyahoga Cty. Court of Common Pleas, 72 Ohio St.3d 461, 462, 650 N.E.2d 899 (1995)
- State ex rel. Crandall, Pheils & Wisniewski v. DeCessna, 73 Ohio St.3d 180, 184, 652 N.E.2d 742 (1995)
- State ex rel. Kreps v. Christiansen, 88 Ohio St.3d 313, 318, 725 N.E.2d 663 (2000)
- State ex rel. Roberts v. Marsh, 142 Ohio St.3d 481, 2014-Ohio-5242, 33 N.E.3d 6, ¶¶ 4-5
- State ex rel. Manley v. Walsh, 142 Ohio St.3d 384, 2014-Ohio-4563, 31 N.E.3d 608, ¶ 16
- Appenzeller v. Miller, 136 Ohio St.3d 378, 2013-Ohio-3719, 996 N.E.2d 919, ¶ 4