

SUPREME COURT OF OHIO

State ex rel. Nationwide Mutual Insurance v. Henson

96 Ohio St. 3d 33 (Ohio 2002) · Decided July 10, 2002

SUMMARY

The Ohio Supreme Court affirmed dismissal of Nationwide Mutual Insurance Company's requests for writs of prohibition and mandamus against a common pleas judge. The court held that Nationwide had an adequate remedy through ordinary appeal and related enforcement procedures to challenge the trial court's treatment of Hamilton's reformation claim and res judicata defense. Because the trial court did not patently and unambiguously lack jurisdiction, extraordinary relief was unavailable.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Douglas, J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Cook, J.; Lundberg Stratton, J.
JURISDICTION	Ohio
DECIDED	July 10, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Nationwide appealed as of right from the Richland County Court of Appeals' dismissal of its complaints seeking writs of prohibition and mandamus against a common pleas judge.
STANDARD OF REVIEW	Whether extraordinary relief in prohibition or mandamus is available when the relator has an adequate remedy in the ordinary course of law and the lower court does not patently and unambiguously lack jurisdiction.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	State ex rel. Nationwide Mutual Insurance v. Judge James D. Henson, Hamilton Insurance Services, Inc., Neil Hamilton

TOPICS

- writ of certiorari
- civil procedure
- appellate procedure
- res judicata
- contracts

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Nationwide was entitled to a writ of prohibition preventing the common pleas court from exercising jurisdiction over Hamilton's reformation claim.
2. Whether Nationwide was entitled to a writ of mandamus compelling the common pleas court to comply with the prior appellate judgments and strike or summarily dismiss Hamilton's reformation action.
3. Whether Nationwide's res judicata defense could support extraordinary relief when it could be raised through an ordinary appeal.
4. Whether oral argument was warranted.

HOLDINGS

1. Neither prohibition nor mandamus will issue when the relator has an adequate remedy in the ordinary course of law, unless the lower court patently and unambiguously lacks jurisdiction.
2. Res judicata does not divest a trial court of jurisdiction to decide whether res judicata applies, and denial of a res judicata defense can be adequately challenged by post-judgment appeal.
3. Nationwide was not entitled to writs of prohibition or mandamus because Judge Henson did not patently and unambiguously lack jurisdiction over Hamilton's reformation claim and Nationwide had an adequate remedy by appeal.
4. Oral argument was not warranted because the case involved neither a matter of great public importance nor complex facts, and the parties' briefs were sufficient.

KEY QUOTATIONS

“Because Judge Henson does not patently and unambiguously lack jurisdiction over Hamilton’s reformation claim, Nationwide is not entitled to the requested extraordinary relief in prohibition and mandamus.” (¶ 13)

FACTUAL BACKGROUND

Nationwide terminated its agency agreement with Hamilton Insurance Services in 1994. Hamilton successfully litigated a breach-of-contract claim in the common pleas court, but the Supreme Court of Ohio later held that the unambiguous agreement permitted termination with or without cause. After remand, Hamilton sought to pursue a reformation claim, and the common pleas court denied Nationwide's motion for summary judgment based on res judicata. Nationwide then sought writs of prohibition and mandamus to stop the reformation action and compel dismissal.

PROCEDURAL HISTORY

Hamilton originally obtained a favorable breach-of-contract judgment against Nationwide, but the Supreme Court of Ohio reversed that judgment in Hamilton I and held that the agency agreement was terminable with or without cause. After remand, Hamilton pursued a reformation claim. Nationwide sought extraordinary relief to prevent the common pleas court from proceeding with that claim and to compel compliance with the prior

appellate judgments. The court of appeals dismissed the complaints because Nationwide had an adequate remedy by appeal, and the Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- Hamilton Ins. Serv., Inc. v. Nationwide Ins. Cos. (Jan. 14, 1998), Richland App. Nos. 97-CA-27 and 97-CA-42, 1998 WL 518137
- Hamilton Ins. Serv., Inc. v. Nationwide Ins. Cos., 86 Ohio St. 3d 270, 274-275, 714 N.E.2d 898 (1999)
- Hamilton Ins. Serv., Inc. v. Nationwide Ins. Cos. (Oct. 19, 2000), Richland App. No. 00 CA 18
- State ex rel. Kreps v. Christiansen, 88 Ohio St. 3d 313, 316, 725 N.E.2d 663 (2000)
- State ex rel. Shimko v. McMonagle, 92 Ohio St. 3d 426, 428-429, 751 N.E.2d 472 (2001)
- State ex rel. Whiteside v. Fais, 91 Ohio St. 3d 463, 464, 746 N.E.2d 1113 (2001)
- State ex rel. Miller v. Reed, 87 Ohio St. 3d 159, 160, 718 N.E.2d 428 (1999)
- Heck, 72 Ohio St. 3d 98, 647 N.E.2d 792
- State ex rel. Stark v. Summit Cty. Court of Common Pleas, 31 Ohio St. 3d 324, 31 OBR 599, 511 N.E.2d 115 (1987)
- State ex rel. Cleveland Hts. v. Cuyahoga Metro. Hous. Auth., 50 Ohio St. 3d 47, 553 N.E.2d 249 (1990)
- State ex rel. Shemo v. Mayfield Hts., 93 Ohio St. 3d 1, 4, 752 N.E.2d 854 (2001)
- Hunt v. Westlake City School Dist. Bd. of Edn., 114 Ohio App. 3d 563, 568, 683 N.E.2d 803 (1996)
- State ex rel. Crandall, Pheils & Wisniewski v. DeCessna, 73 Ohio St. 3d 180, 652 N.E.2d 742 (1995)
- State ex rel. Willacy v. Smith, 78 Ohio St. 3d 47, 676 N.E.2d 109 (1997)
- State ex rel. Painesville v. Lake Cty. Bd. of Commrs., 93 Ohio St. 3d 566, 569, 757 N.E.2d 347 (2001)
- State ex rel. Dillery v. Icsman, 92 Ohio St. 3d 312, 318, 750 N.E.2d 156 (2001)

OPINION

PER CURIAM.

Per Curiam. {¶ 1} On April 1, 1994, appellant, Nationwide Mutual Insurance Company (“Nationwide”), terminated an agency agreement it had with appellee Hamilton Insurance Services, Inc., which had been incorporated by appellee Neil Hamilton.¹ {¶ 2} Hamilton filed an action in the Richland County Court of Common Pleas, alleging that Nationwide had wrongfully terminated the agency agreement.

In his complaint, Hamilton alleged that the termination was a breach of contract because the agency could be terminated only for just cause. Hamilton also alleged a reformation claim, i.e., that if the agency agreement authorized Nationwide to terminate Hamilton’s agency without cause, the agreement should be reformed to reflect the intent of the parties that the agency could be

terminated only for cause. {¶ 3} At trial, the common pleas court presented the breach-of-contract claim to a jury, which returned a verdict in favor of Hamilton.

The common pleas court adopted the jury verdict and additionally determined that Hamilton was entitled to certain post-termination payments. On appeal, the court of appeals affirmed the judgment of the court of common pleas. *Hamilton Ins. Serv., Inc. v. Nationwide Ins. Cos.* (Jan. 14, 1998), Richland App. Nos. 97-CA-27 and 97-CA-42, 1998 WL 518137.

On further appeal, we reversed the judgment of the *34court of appeals and held that Nationwide did not breach the terms of the agency agreement when it terminated the contract in April 1994 because the unambiguous agreement was terminable with or without cause. *Hamilton Ins. Serv., Inc. v. Nationwide Ins. Cos.*

(1999), 86 Ohio St.3d 270, 274-275, 714 N.E.2d 898 (“Hamilton I”). We ordered that a “mandate be sent to the Court of Common Pleas of Richland County to carry the judgment into execution.” {¶ 4} On remand, Hamilton filed a Civ.R. 60(B) motion for relief from judgment in which he sought to proceed on his reformation claim.

On March 13, 2000, the common pleas court granted the Civ.R. 60(B) motion and permitted the reformation claim to go forward. On appeal, the court of appeals, in a two-to-one decision, reversed the judgment of the common pleas court. *Hamilton Ins. Serv., Inc. v. Nationwide Ins. Cos.* (Oct. 19, 2000), Richland App. No. 00 CA 18, 2000 WL 1591094 (“Hamilton II”).

We did not accept the discretionary appeal. (2001), 91 Ohio St.3d 1449, 742 N.E.2d 146. The court of appeals held that Civ.R. 60(B) could not be used to modify or vacate a judgment of a superior court and that “[e]ven if” it could be employed in this manner, “the matter is now res judicata and Hamilton cannot maintain his action for reformation.” *Id.* at 9. {¶ 5} One day following the court of appeals’ judgment in Hamilton II and before this court had denied jurisdiction, on October 20, 2000, Hamilton filed a complaint in the Richland County Court of Common Pleas against Nationwide to refile his reformation claim.

In its answer and motion for summary judgment, Nationwide claimed that Hamilton’s reformation action was barred by res judicata, i.e., that Hamilton I and Hamilton II precluded the claim. On May 25, 2001, appellee Judge James D. Henson of the common pleas court denied Nationwide’s motion for summary judgment because it was “undisputed that Hamiltons’ reformation claim has yet to be adjudged on the merits by this or any other trial court” and that neither the court of appeals nor the Supreme Court intended to preempt the common pleas court’s jurisdiction over this claim. {¶ 6} On June 20, 2001, Nationwide filed complaints in the Court of Appeals for Richland County.

Nationwide requested a writ of prohibition to prevent Judge Henson from exercising jurisdiction over the reformation claim in the pending common pleas court action and a writ of mandamus to

compel Judge Henson to comply with Hamilton I and Hamilton II and strike or summarily dismiss Hamilton's pending common pleas court action. Judge Henson filed an answer, and Hamilton filed motions for leave to intervene as respondents and answers.

On August 17, 2001, the court of appeals entered judgment dismissing Nationwide's complaints on the basis that Nationwide had "an adequate remedy at law by way of appeal." {¶ 7} This cause is now before the court upon Nationwide's appeal as of right as well as its request for oral argument. *35Oral Argument {¶ 8} Nationwide requests oral argument in this appeal because the issue raised "is sufficiently important to the maintenance of the system of inferior and superior courts in Ohio to warrant" argument and oral argument "may assist" the court to better comprehend the parties' history of litigation.

But this case involves neither a matter of great public importance nor complex facts. We have resolved comparable claims without the necessity of oral argument. See, e.g., *State ex rel. Crandall, Pheils & Wisniewski v. DeCessna* (1995), 73 Ohio St.3d 180, 652 N.E.2d 742, and *State ex rel. Willacy v. Smith* (1997), 78 Ohio St.3d 47, 676 N.E.2d 109. And the parties' briefs are sufficient to resolve this appeal.

State ex rel. Painesville v. Lake Cty. Bd. of Commrs. (2001), 93 Ohio St.3d 566, 569, 757 N.E.2d 347. Therefore, we deny Nationwide's request for oral argument and proceed to consider the merits of its appeal. Prohibition and Mandamus {¶ 9} Nationwide asserts that the court of appeals erred in dismissing its complaints for extraordinary relief in prohibition and mandamus because Judge Henson disregarded the mandates of this court in Hamilton I and of the court of appeals in Hamilton II. {¶ 10} The court of appeals held that the writs would not issue because appellant had an adequate legal remedy by appeal.

Neither prohibition nor mandamus will issue if Nationwide has an adequate remedy in the ordinary course of law. *State ex rel. Kreps v. Christiansen* (2000), 88 Ohio St.3d 313, 316, 725 N.E.2d 663. In the absence of a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction can determine its own jurisdiction, and a party challenging that jurisdiction has an adequate remedy by appeal.

State ex rel. Shimko v. McMonagle (2001), 92 Ohio St.3d 426, 428-429, 751 N.E.2d 472. {¶ 11} To the extent that Nationwide asserts *res judicata* as a basis for extraordinary relief, *res judicata* does not divest a trial court of jurisdiction to decide its applicability, and the denial of this defense by the trial court can be adequately challenged by post-judgment appeal.

State ex rel. Whiteside v. Fais (2001), 91 Ohio St.3d 463, 464, 746 N.E.2d 1113; *State ex rel. Miller v. Reed* (1999), 87 Ohio St.3d 159, 160, 718 N.E.2d 428. {¶ 12} Finally, the cases cited by Nationwide are inapposite. Those cases generally involve either a patent and unambiguous disregard of a superior court mandate, see, e.g., *Heck*, 72 Ohio St.3d 98, 647 N.E.2d 792, a

continuing and vexatious abuse of judicial process with duplicative proceedings in multiple jurisdictions, State ex rel.

Stark v. Summit Cty. Court of Common Pleas (1987), 31 Ohio St.3d 324, 31 OBR 599, 511 N.E.2d 115 (four separate lawsuits in three *36different courts), or the use of res judicata to bar a defense in a mandamus action to appoint a board member, State ex rel. *Cleveland Hts. v. Cuyahoga Metro. Hous. Auth.*

(1990), 50 Ohio St.3d 47, 553 N.E.2d 249. None of these circumstances is present here. Arter & Hadden, L.L.P., and Irene C. Keyse-Walker; Lutz & Oxley and Fred M. Oxley, for appellant. James J. Mayer, Jr., Richland County Prosecuting Attorney, and John Randolph Spon, Jr., Assistant Prosecuting Attorney, for appellee Judge James D. Henson. • Inscore, Rinehardt, Whitney & Enderle and Larry L. Inscore, for appellees Hamilton Insurance Services, Inc., and Neil Hamilton. ¶ 13 Based on the foregoing, the court of appeals correctly held that Nationwide has an adequate remedy in the ordinary course of law to raise its claims.² These remedies include appeal, see, e.g., *Shimko*, 92 Ohio St.3d 426, 751 N.E.2d 472, and *Miller*, 87 Ohio St.3d 159, 718 N.E.2d 428, and a motion for contempt.

See, generally, State ex rel. *Shemo v. Mayfield Hts.* (2001), 93 Ohio St.3d 1, 4, 752 N.E.2d 854, quoting *Hunt v. Westlake City School Dist. Bd. of Edn.* (1996), 114 Ohio App.3d 563, 568, 683 N.E.2d 803 (“in general ‘[t]he use of mandamus to enforce a judgment is not popular and widespread because other avenues of enforcement [e.g., motion for contempt] are readily available’ ” [bracketed insert added in *Hunt*]).

Because Judge Henson does not patently and unambiguously lack jurisdiction over Hamilton’s reformation claim, Nationwide is not entitled to the requested extraordinary relief in prohibition and mandamus. Therefore, we affirm the judgment of the court of appeals. Judgment affirmed. Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg Stratton, JJ., concur..

Appellees Neil Hamilton and Hamilton Insurance Services, Inc. are collectively referred to as “Hamilton” in this opinion.. By so holding, we need not consider Judge Henson’s claim that the issuance of the writs would violate the Open Courts Clause of Section 16, Article I of the Ohio Constitution. State ex rel. *Dillery v. Icsman* (2001), 92 Ohio St.3d 312, 318, 750 N.E.2d 156, fn.

1 (courts decide constitutional issues only when absolutely necessary).