

SUPREME COURT OF OHIO

State ex rel. Newsome v. Hack

State ex rel. Newsome v. Hack (Slip Opinion), 2020 Ohio 336 (Ohio 2020) · No. 2019-0457 · Decided February 5, 2020

SUMMARY

The Supreme Court of Ohio granted a writ of mandamus ordering the Marion County Court Reporter's Office and the current county court reporter to inform Jeffrey Newsome of the fee for a copy of his sentencing transcript. The court held that Newsome established a clear legal right to purchase the transcript, a corresponding legal duty to provide the fee information, and the lack of an adequate remedy at law.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Maureen O'Connor, C.J.; Maureen O'Connor; Maureen Kennedy; Jennifer Brunner French; Patrick Fischer; Pat DeWine; Michael P. Donnelly; Melody Stewart
JURISDICTION	Ohio
DECIDED	February 5, 2020
DOCKET	2019-0457
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original mandamus action seeking an order compelling the county court reporter to inform the relator of the fee for a copy of his sentencing-hearing transcript.
STANDARD OF REVIEW	To obtain mandamus relief, the relator must establish a clear legal right to the requested relief, a corresponding clear legal duty on the respondent, and the lack of an adequate remedy in the ordinary course of law.
PRECEDENTIAL VALUE	published
PARTIES	Jeffrey Newsome v. Karla Hack, Marion County Court Reporter's Office, Current Marion County Court Reporter

TOPICS

remedies

civil procedure

criminal procedure

costs

PRACTICE AREAS

civil procedure

mandamus

public records

criminal procedure

judicial records

QUESTIONS PRESENTED

1. Whether Newsome established a clear legal right to purchase a copy of his sentencing-hearing transcript.
2. Whether the current Marion County court reporter had a clear legal duty to locate the transcript and inform Newsome of the fee.
3. Whether Newsome lacked an adequate remedy in the ordinary course of law and was therefore entitled to a writ of mandamus.
4. Whether the Marion County Court Reporter's Office and the current Marion County Court Reporter should be added as respondents.

HOLDINGS

1. Newsome established a clear legal right to purchase a copy of his sentencing transcript because the trial court's order indicated that the transcript existed and was available upon payment of the applicable transcript fees.
2. The current Marion County court reporter had a clear legal duty to locate the existing transcript and inform Newsome of the fee for a copy.
3. Newsome lacked an adequate remedy in the ordinary course of law because the trial court had effectively granted his motion to compel production of the transcript, leaving no adverse final order from which he could obtain meaningful appellate relief.
4. The court granted Newsome's unopposed motion to add the Marion County Court Reporter's Office and the current Marion County Court Reporter as respondents.

KEY QUOTATIONS

“To be entitled to a writ of mandamus, Newsome must show a clear legal right to purchase a copy of his sentencing transcript, a corresponding clear legal duty of the Marion County court reporter to inform him of the transcript fee, and the lack of an adequate remedy at law.” (¶ 6)

“We therefore order the Marion County Court Reporter’s Office and the current Marion County Court Reporter to inform Newsome of the transcript fee.” (¶ 12)

FACTUAL BACKGROUND

Jeffrey Newsome, an inmate, sought a copy of the transcript of his 2009 sentencing hearing. Although the original audio recording could not be located, the trial court determined that a transcript existed and was available from the court reporter upon payment of transcript fees. Newsome had not received the transcript or been informed of the applicable fee, and the former court reporter had retired, leading him to seek joinder of the court reporter's office and the current court reporter.

PROCEDURAL HISTORY

Newsome previously sought a transcript in the trial court, which entered an order stating that a transcript existed and was available upon payment of transcript fees. He then filed an original mandamus complaint in the Supreme Court of Ohio. After granting an alternative writ, the court granted Newsome's motion to add the Marion County Court Reporter's Office and the current county court reporter as respondents and granted the writ.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Marion County Court Reporter's Office and the current Marion County Court Reporter were ordered to inform Newsome of the transcript fee.

CASES CITED

- State ex rel. Waters v. Spaeth, 131 Ohio St. 3d 55, 2012-Ohio-69, 960 N.E.2d 452, ¶ 6
- State ex rel. Ulery v. Capper, 2d Dist. Clark No. 2010-CA-97, 2012-Ohio-147, ¶ 12
- State ex rel. Slagle v. Rogers, 103 Ohio St. 3d 89, 2004-Ohio-4354, 814 N.E.2d 55, ¶ 18
- State ex rel. Gabriel v. Youngstown, 75 Ohio St. 3d 618, 665 N.E.2d 209 (1996)
- Ohio Contract Carriers Assn. v. Pub. Util. Comm., 140 Ohio St. 160, 42 N.E.2d 758, syllabus

OPINION

PER CURIAM.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex rel. Newsome v. Hack, Slip Opinion No. 2020-Ohio-336.] NOTICE This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

SLIP OPINION NO. 2020-OHIO-336 THE STATE EX REL. NEWSOME v. HACK ET AL.
[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex rel. Newsome v. Hack, Slip Opinion No. 2020-Ohio-336.] Mandamus—Relator has shown clear legal right to purchase copy of transcript of his sentencing hearing, corresponding clear legal duty of county court reporter to inform him of transcript fee, and lack of an adequate remedy at law—Writ ordering county court reporter's office to inform relator of transcript fee granted.

(No. 2019-0457—Submitted October 22, 2019—Decided February 5, 2020.) IN MANDAMUS. _____ Per Curiam. {¶ 1} This is an original action filed by relator, Jeffrey Newsome, seeking a writ of mandamus to compel respondent Karla Hack, the former Marion County Court Reporter, to inform him of the fee for a copy of the transcript of his 2009 SUPREME COURT OF OHIO sentencing hearing.

Newsome has moved to add the Marion County Court Reporter's Office and the current Marion County Court Reporter as respondents. For the following reasons, we grant Newsome's motion and his request for a writ of mandamus. Background {¶ 2} Newsome is an inmate in the custody of the Ohio Department of Rehabilitation and Correction.

In May 2017, Newsome's nephew, Jack Newsome Jr., attempted to purchase a copy of Newsome's sentencing transcript. According to Jack Newsome's affidavit, at that time, he "was informed that the Court Reporter, Joanie Hoffman could not find" the digital copy of the transcript. {¶ 3} In June 2017, Jeffrey Newsome filed a motion to compel the court reporter to produce a copy of the sentencing transcript.

On December 14, 2017, the trial court entered a judgment stating that although the original audio recording of the sentencing hearing could not be located, "a transcript of the sentencing hearing does exist, and is available from Court Reporter Karla Hack upon payment of transcript fees to the Court Reporter by [Newsome]." {¶ 4} In March 2019, Newsome filed in this court a complaint for a writ of mandamus arguing that he has a clear legal right to purchase a copy of the sentencing transcript.

On June 5, 2019, this court granted Newsome an alternative writ. 156 Ohio St. 3d 1403, 2019-Ohio-2156, 123 N.E.3d 1026. {¶ 5} On July 17, 2019, Newsome filed a motion to add the Marion County Court Reporter's Office and the current Marion County Court Reporter as respondents in this action. Newsome's motion states that in June 2019, he learned that Hack retired from the court eight years ago and that he has been unable to determine who the current court reporter is.

Newsome has not yet ascertained the transcript fee or received a copy of the transcript. 2 January Term, 2020 Legal Analysis {¶ 6} To be entitled to a writ of mandamus, Newsome must show a clear legal right to purchase a copy of his sentencing transcript, a corresponding clear legal duty of the Marion County court reporter to inform him of the transcript fee, and the lack of an adequate remedy at law.

State ex rel. Waters v. Spaeth, 131 Ohio St.3d 55, 2012-Ohio-69, 960 N.E.2d 452, ¶ 6. {¶ 7} R.C. 2301.23 provides that "[w]hen notes have been taken or an electronic recording has been made in a case * * *, if the court or either party to the suit requests written transcripts of any portion of the proceeding, the reporter reporting the case shall make full and accurate transcripts of the notes or electronic recording." Transcripts prepared under R.C.

2301.23 are public records for purposes of Ohio's Public Records Act, R.C. 149.43. *State ex rel. Ulery v. Capper*, 2d Dist. Clark No. 2010-CA-97, 2012-Ohio-147, ¶ 12, citing 2002 Ohio Atty.Gen.Ops. No. 2002-014. But when a party to a case "requests copies of a court transcript of the proceedings in that action, R.C. 149.43 is superseded by R.C. 2301.24, and the party must pay the official court reporter the fees designated by the court pursuant to [R.C.

2301.24]." *State ex rel. Slagle v. Rogers*, 103 Ohio St. 3d 89, 2004-Ohio-4354, 814 N.E.2d 55, ¶ 18. {¶ 8} Newsome has established that he has a clear legal right to purchase a copy of his sentencing transcript. Neither an answer to Newsome's complaint nor a brief in response to his merit brief has been filed in this case, but the trial court's December 2017 order indicates that a transcript has been prepared and exists.

Therefore, the current court reporter has a clear legal duty to locate the transcript and to inform Newsome of the fee for a copy of it. {¶ 9} Newsome has also established that he lacks an adequate remedy in the ordinary course of the law.

The trial court effectively granted Newsome's motion to compel the court reporter to produce a copy of the sentencing transcript. " 'Appeal lies only on behalf of a party aggrieved by the final order appealed from. 3 SUPREME COURT OF OHIO Appeals are not allowed for the purpose of settling abstract questions, but only to correct errors injuriously affecting the appellant.' " *State ex rel.*

Gabriel v. Youngstown, 75 Ohio St. 3d 618, 619, 665 N.E.2d 209 (1996), quoting *Ohio Contract Carriers Assn. v. Pub. Util. Comm.*, 140 Ohio St. 160, 42 N.E.2d 758, syllabus. {¶ 10} Therefore, because Newsome has established all three requirements necessary to obtain a writ of mandamus, we grant the writ. {¶ 11} We also grant Newsome's unopposed motion to add the Marion County Reporter's Office and the current Marion County Court Reporter as parties to this action.

In original actions, the addition of parties is governed by the Rules of Civil Procedure. S.Ct.Prac.R. 4.06(A)(1). Civ.R. 21 provides for the addition of parties "by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just." Newsome filed his motion after he learned that Hack is no longer employed as the Marion County Court Reporter.

Because Hack is no longer employed in that capacity, we find that it is appropriate to add the Marion County Court Reporter's Office and the current Marion County Court Reporter as respondents so that our judgment granting Newsome a writ of mandamus is directed at the individual with the ability to execute it. {¶ 12} We therefore order the Marion County Court Reporter's Office and the current Marion County Court Reporter to inform Newsome of the transcript fee.

Writ granted. O'CONNOR, C.J., and KENNEDY, FRENCH, FISCHER, DEWINE, DONNELLY,
and STEWART, JJ., concur. _____ Jeffrey Newsome, pro se. _____