

OHIO COURT OF APPEALS, SIXTH APPELLATE DISTRICT, ERIE COUNTY

State ex rel. Bey v. McGookey

2026-Ohio-1685 · No. E-26-022 · Decided May 8, 2026

SUMMARY

The Sixth District Court of Appeals of Ohio sua sponte dismissed Bobbie Bey’s petition for a writ of procedendo seeking to compel the trial court to rule on several pending motions in her criminal case. The court held that, because only the motion to suppress had been pending for more than 120 days and it had recently been supplemented, Bey could not show an undue delay warranting extraordinary relief.

CASE DETAILS

COURT	Ohio Court of Appeals, Sixth Appellate District, Erie County
WRITING FOR THE COURT	Charles E. Sulek; Gene A. Zmuda; Myron C. Duhart
JURISDICTION	Ohio Court of Appeals, Sixth Appellate District, Erie County
DECIDED	May 8, 2026
DOCKET	E-26-022
DISPOSITION	dismissed
PROCEDURAL POSTURE	Relator sought an original writ of procedendo compelling an Erie County trial judge to rule on pending criminal-case motions. The Ohio Court of Appeals sua sponte dismissed the petition.
STANDARD OF REVIEW	Whether the petition states a claim for procedendo and whether the relator obviously cannot prevail on the facts alleged; sua sponte dismissal is permitted when a claim is frivolous or the claimant obviously cannot prevail.
PRECEDENTIAL VALUE	published
PARTIES	State ex rel. Bobbie Bey v. Hon. Beverly K. McGookey

TOPICS

- appellate procedure
- criminal procedure
- remedies
- suppression of evidence
- discovery criminal

PRACTICE AREAS

- Appellate procedure
- Extraordinary writs
- Criminal procedure

QUESTIONS PRESENTED

1. Whether Bey was entitled to a writ of procedendo compelling the trial court to rule on her pending motions.
2. Whether Sup.R. 40(A)(3)'s 120-day motion-resolution provision created an enforceable right to relief in procedendo.

HOLDINGS

1. Bey was not entitled to procedendo because the facts alleged did not establish that the trial court had unnecessarily delayed ruling on her motions; the petition was therefore properly dismissed sua sponte.
2. Sup.R. 40(A)(3) does not create an enforceable right to relief in mandamus or procedendo, although the rule may guide the court in determining whether a trial court has unduly delayed ruling on a motion.

KEY QUOTATIONS

“A writ of procedendo is proper when a court has refused to enter judgment or has unnecessarily delayed proceeding to judgment.” (§ 8)

“Sup.R. 40(A)(3), however, “does not give rise to an enforceable right in mandamus or procedendo.”” (§ 9)

“A court of appeals may sua sponte dismiss a claim if it “is frivolous or the claimant obviously cannot prevail on the facts alleged in the complaint.”” (§ 11)

FACTUAL BACKGROUND

An Erie County grand jury indicted Bobbie Bey on one count of fifth-degree-felony obstructing justice on December 9, 2025. Bey filed several motions beginning December 12, 2025, including a motion to suppress, motions concerning probable cause, discovery, a bill of particulars, and a stay of proceedings. Although Bey alleged that the trial court had not ruled on the motions, only the suppression motion had been pending for more than 120 days, and Bey had supplemented that motion on March 9, 2026.

PROCEDURAL HISTORY

An Erie County grand jury indicted Bey for felony obstructing justice, and Bey subsequently filed several motions, including a motion to suppress, motions concerning probable cause and discovery, and a motion to stay proceedings. After the State responded to several motions, Bey sought procedendo alleging that the trial court had failed to rule. The appellate court dismissed the petition because the record did not show an undue delay in ruling on the motions.

DISPOSITION

dismissed

CASES CITED

- State ex rel. Culgan v. Collier, 2013-Ohio-1762

- State ex rel. Quinn v. Rastatter, 2026-Ohio-1208
- State ex rel. Dodson v. Phipps, 2024-Ohio-4928
- State ex rel. Scott v. Cleveland, 2006-Ohio-6573

OPINION

PER CURIAM.

[Cite as State ex rel. Bey v. McGookey, 2026-Ohio-1685.] IN THE COURT OF APPEALS OF OHIO SIXTH APPELLATE DISTRICT ERIE COUNTY State ex rel. Bobbie Bey Court of Appeals No. E-26-022 Relator v. Hon. Beverly K. McGookey DECISION AND JUDGMENT Respondent Decided: May 8, 2026 ***** SULEK, J. {¶ 1} This matter is before the court on the petition of relator Bobbie Bey for a writ of procedendo compelling respondent Hon. Beverly K. McGookey to rule on several pending motions in the underlying case No. 2025 CR 0536.

Because Bey obviously cannot prevail on the facts alleged, this petition is sua sponte dismissed. I. Factual Background and Procedural History {¶ 2} As taken from the trial court’s docket attached to Bey’s petition, on December 9, 2025, the Erie County Grand Jury indicted Bey on one count of obstructing justice, a felony of the fifth degree. {¶ 3} Shortly thereafter, Bey began filing several motions.

Relevant here are (1) a December 12, 2025 “Motion to Suppress Arrest, Custodial Statements, Booking Data, and All Fruits of the Unlawful Detention;” (2) a January 6, 2026 “Motion for Probable Cause Hearing and Judicial Review of Arrest;” (3) a January 6, 2026 “Motion to Stay Proceedings Pending Resolution of Suppression and Discovery;” (4) a February 5, 2026 “Updated Motion to Compel Discovery Compliance, Enforce Demand for Bill of Particulars, and Preserve Evidence;” and (5) a April 1, 2026 “Notice of Material Inconsistency Regarding State’s Bill of Particulars Filings and Request for Record Clarification.” {¶ 4} Bey was arraigned on January 7, 2026, wherein she entered a not guilty plea. {¶ 5} On February 27, 2026, the State filed its response to Bey’s December 12, 2025 motion to suppress, her January 6, 2026 motion to stay, and her February 5, 2026 motion to compel. {¶ 6} Thereafter, on March 9, 2026, Bey filed a “Supplemental Memorandum in Support of Motion to Suppress and Request for Docket Correction/Clarification of Record.” {¶ 7} Bey asserts that her motions have not been ruled upon by the trial court.

II. Analysis {¶ 8} Bey seeks a writ of procedendo compelling the trial court to rule on her outstanding motions. “A writ of procedendo is proper when a court has refused to enter judgment or has unnecessarily delayed proceeding to judgment.” State ex rel. Culgan v. Collier, 2013-Ohio-1762, ¶ 7.

To be entitled to a writ of procedendo, Bey must show “a 2. 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.” Id. {¶ 9} Bey cites Sup.R. 40(A)(3), which provides that “All motions shall be ruled upon within one hundred twenty days from the date the motion was filed, except as otherwise noted on the report forms.” Sup.R.

40(A)(3), however, “does not give rise to an enforceable right in mandamus or procedendo.” State ex rel. Quinn v. Rastatter, 2026- Ohio-1208, ¶ 12, quoting Culgan at ¶ 8. “[B]ut ‘the rule does guide this court in determining whether a trial court has unduly delayed ruling on a motion for purposes of ruling on a request for an extraordinary writ.’” Id., quoting Culgan at ¶ 11. {¶ 10} Here, of Bey’s list of five pending motions, only her motion to suppress has been filed for more than 120 days.

She recently supplemented that motion, however, on March 9, 2026. There is, therefore, no set of facts on which this court could conclude that the trial court has unduly delayed ruling on Bey’s motions. {¶ 11} Accordingly, Bey cannot prevail on her petition and it is hereby sua sponte dismissed. See State ex rel. Dodson v. Phipps, 2024-Ohio-4928, ¶ 12, quoting State ex rel.

Scott v. Cleveland, 2006-Ohio-6573, ¶ 14 (“A court of appeals may sua sponte dismiss a claim if it ‘is frivolous or the claimant obviously cannot prevail on the facts alleged in the complaint.’”). {¶ 12} Any costs of this action are assessed to Bey. {¶ 13} The clerk is directed to serve upon the parties, within three days, a copy of this decision in a manner prescribed by Civ.R.

5(B). 3. State ex rel. Bobbie Bey, Relator v. Hon. Beverly K. Mcgookey, Respondent Case No.: E-26-022 A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See also 6th Dist.Loc.App.R. 4. Gene A. Zmuda, J. JUDGE Myron C. Duhart, J. JUDGE Charles E. Sulek, J. CONCUR. JUDGE This decision is subject to further editing by the Supreme Court of Ohio’s Reporter of Decisions.

Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court’s web site at: <http://www.supremecourt.ohio.gov/ROD/docs/>. 4.