

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

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