

SUPREME COURT OF OHIO

State ex rel. Roberts v. Hatheway

2021-Ohio-4097 (Ohio 2021) · No. 2021-0771 · Decided November 23, 2021

SUMMARY

The Supreme Court of Ohio affirmed dismissal of Mallon Roberts’s petition for writs of mandamus and procedendo seeking to compel a trial-court judge to rule on a jurisdictional motion. The court held that the claims were moot because the judge had already ruled on the motion, and that any alleged error could be addressed through a direct appeal because Roberts had an adequate remedy at law.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per curiam; Maureen O'Connor, C.J.; Fischer, J. (not participating)
JURISDICTION	Ohio
DECIDED	November 23, 2021
DOCKET	2021-0771
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the First District Court of Appeals' dismissal of a petition seeking writs of mandamus and procedendo to compel a trial-court judge to rule on a motion challenging subject-matter jurisdiction.
PRECEDENTIAL VALUE	published
PARTIES	Mallon Roberts v. Alison Hatheway, Judge

TOPICS

mootness appellate procedure civil procedure subject matter jurisdiction remedies

PRACTICE AREAS

civil procedure appellate procedure extraordinary writs

QUESTIONS PRESENTED

- Whether Roberts's claim for a writ of procedendo became moot after the trial court ruled on the motion he sought to have decided.
- Whether a writ of mandamus could issue to compel an act that the trial court had already performed.

3. Whether mandamus or procedendo was available to review the merits of the trial court's ruling when Roberts had an adequate remedy through direct appeal.

HOLDINGS

1. A procedendo claim becomes moot when the court performs the duty the petitioner seeks to compel; because Judge Hatheway ruled on Roberts's motion, dismissal of the procedendo claim was proper.
2. Mandamus will not issue to compel an act that has already been performed; because the trial court had ruled on Roberts's motion, mandamus could not lie.
3. Neither mandamus nor procedendo will issue when the petitioner has an adequate remedy in the ordinary course of law; Roberts could address any error in the trial court's ruling through a direct appeal.

KEY QUOTATIONS

“a “writ of mandamus will not issue to compel an act already performed.”” (§ 6)

“neither a writ of procedendo nor a writ of mandamus will issue if an adequate remedy exists in the ordinary course of law” (§ 7)

FACTUAL BACKGROUND

In June 2020, Roberts filed a motion challenging the subject-matter jurisdiction of the trial judge. In April 2021, he sought mandamus and procedendo to compel Judge Hatheway to rule on that motion. Eight days after the petition was filed, the judge issued an entry dismissing the motion on res judicata grounds.

PROCEDURAL HISTORY

Roberts filed a jurisdictional motion in the Hamilton County Court of Common Pleas. While his petition for mandamus and procedendo was pending in the First District Court of Appeals, Judge Hatheway issued an entry dismissing the motion on res judicata grounds. The court of appeals dismissed the procedendo claim as moot and concluded that mandamus was not the proper remedy. The Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Weiss v. Hoover, 84 Ohio St.3d 530, 532, 705 N.E.2d 1227 (1999)
- State ex rel. Morgan v. Fais, 146 Ohio St.3d 428, 2016-Ohio-1564, 57 N.E.3d 1140, ¶ 4
- State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas, 74 Ohio St.3d 278, 279, 658 N.E.2d 273 (1996)
- State ex rel. Reynolds v. Basinger, 99 Ohio St.3d 303, 2003-Ohio-3631, 791 N.E.2d 459, ¶ 8