

SUPREME COURT OF GEORGIA

Donald v. Price, 283 Ga. 311

658 S.E.2d 569 (2008) · No. No. S08A0436 · Decided March 10, 2008

SUMMARY

The Supreme Court of Georgia held that an inmate’s mandamus petition was properly subject to dismissal because it was not filed on the form required by OCGA § 9-10-14(b). The court ruled that the statutory filing requirement was mandatory, that the defense was timely raised, and that the trial court erred by failing to dismiss the action without prejudice.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Carley, Justice; All the Justices
JURISDICTION	Georgia
DECIDED	March 10, 2008
DOCKET	No. S08A0436
DISPOSITION	reversed
PROCEDURAL POSTURE	The inmate appellee filed a pro se petition for mandamus. The trial court granted mandamus relief and declined to dismiss the petition despite the inmate's failure to use the form required by OCGA § 9-10-14(b). The Supreme Court of Georgia granted the appellants' application for discretionary appeal.
STANDARD OF REVIEW	De novo review of the trial court's application of OCGA § 9-10-14(b) and its refusal to dismiss the noncompliant pleading.
PRECEDENTIAL VALUE	Published opinion; binding precedent of the Supreme Court of Georgia.
PARTIES	Warden of the state prison, Commissioner of the Department of Corrections v. Rashad D. Price

TOPICS

- civil procedure
- statutory interpretation
- appellate procedure
- preservation of error
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether an inmate's action against state officials must be dismissed when the complaint or initial pleading is not filed on the form promulgated by the Administrative Office of the Courts under OCGA § 9-10-14(b).
2. Whether the trial court could decline to dismiss the noncompliant mandamus petition because it had been pending for more than a year.

HOLDINGS

1. OCGA § 9-10-14(b) is mandatory and unambiguous: a clerk may not accept an inmate's action against a state or local government officer unless the complaint or other initial pleading is on the required Administrative Office of the Courts form. When the clerk accepts and docketes a noncompliant pleading, the trial court may not treat it as a viable pleading.
2. The trial court could not refuse dismissal merely because the petition had been pending for more than a year; the action had never been validly initiated, and dismissal without prejudice was required.

KEY QUOTATIONS

“This language is unambiguous and does not provide for any exceptions.” (570)

“The language of OCGA § 9-10-14(b) is mandatory, the failure of the clerk to comply with the statutory requirement was timely raised by way of defense, and the trial court erred in failing to dismiss the action without prejudice.” (571)

FACTUAL BACKGROUND

Rashad D. Price, an inmate at a state prison, filed a pro se mandamus petition against the prison warden and the Commissioner of the Department of Corrections. He did not use the form promulgated by the Administrative Office of the Courts, although the record did not support his assertion that the form was unavailable to him. The clerk accepted and docketed the petition, and the trial court proceeded to grant mandamus relief.

PROCEDURAL HISTORY

Price filed a mandamus petition against prison officials without using the form promulgated by the Administrative Office of the Courts. Although the clerk accepted and docketed the petition, the appellants timely raised the statutory noncompliance in an answer and motion to dismiss. The trial court declined to dismiss because the action had been pending for more than a year and granted mandamus relief; the Supreme Court reversed and directed dismissal without prejudice.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The action was to be dismissed without prejudice. The remaining enumeration of error was moot.

CASES CITED

- King v. State of Ga., 268 Ga. 384, 493 S.E.2d 189 (1997)
- Coonce v. State, 171 Ga. App. 20, 21(1), 318 S.E.2d 763 (1984)
- Portee v. State of Ga., 277 Ga. App. 536, 537(1), 627 S.E.2d 63 (2006)

OPINION

CARLEY, J.

658 S.E.2d 569 (2008) DONALD et al. v. PRICE. No. S08A0436. Supreme Court of Georgia. March 10, 2008. *570 Thurbert E. Baker, Atty. Gen., Robert Wright Smith, Jr., Asst. Dist. Atty., for appellant. Lisa L. Kung, Southern Center for Human Rights, Gerald Richard Weber, Jr., Atlanta, for Appellee. CARLEY, Justice. Rashad D. Price is an inmate at a state prison.

Acting pro se, he filed a mandamus petition against the Warden of that prison and the Commissioner of the Department of Corrections (Appellants). The trial court granted mandamus relief, and this Court unanimously granted the Warden's application for discretionary appeal. See OCGA § 42-12-8. Appellants contend that the trial court erred by allowing Price's complaint to proceed even though he failed to use the form promulgated by the Administrative Office of the Courts (AOC), as required by OCGA § 9-10-14(b).

In relevant part, that statute provides the following: No clerk of any court shall accept for filing any action by an inmate of a state or local penal or correctional institution... against any... officer of state or local government unless the complaint or other initial pleading is on a form or forms promulgated by the [AOC].... This language is unambiguous and does not provide for any exceptions.

In this case, however, the clerk of the trial court did accept Price's mandamus petition for filing and thereby acted "contrary to the requirements of OCGA § 9-10-14(b)...." King v. State of Ga., 268 Ga. 384, 493 S.E.2d 189 (1997).

As the trial court itself found, the clerk "should not have docketed this complaint absent the proper form." If the clerk should not have docketed the complaint, then the trial court should not have considered it as a viable pleading. Appellants raised the failure to comply with the mandate of OCGA § 9-10-14(b) as a defense in both a timely answer and a subsequent motion to dismiss.

The trial court noted Price's contention "that the requisite form was not available to him at the time he filed his complaint...." However, the trial court did not resolve that question in Price's favor, presumably because Appellants' counsel stated in his place that the form was available to Price at

the facility where he was incarcerated, and because none of Price's statements were made under oath.

See *Coonce v. State*, 171 Ga.App. 20, 21(1), 318 S.E.2d 763 (1984). Moreover, the trial court recognized that the clerk could have provided Price with a copy of the AOC form. Thus, the record does not support Price's assertion that he was denied access to the appropriate form. See *Portee v. State of Ga.*, 277 Ga.App. 536, 537(1), 627 S.E.2d 63, fn. 2 (277 Ga.App.

536, 627 S.E.2d 63) (2006). The trial court ultimately declined to dismiss the mandamus petition because it had been pending over a year, and no purpose would be served by requiring re-submission on the appropriate form.

However, if Price had used the AOC form, there would not *571 have been any year-long delay in the valid initiation of this action. More importantly, if the clerk had complied with the duty imposed by OCGA § 9-10-14(b), the invalid pleading would not have been pending in the trial court for any length of time whatever.

The language of OCGA § 9-10-14(b) is mandatory, the failure of the clerk to comply with the statutory requirement was timely raised by way of defense, and the trial court erred in failing to dismiss the action without prejudice. See *King v. State of Ga.*, *supra*.

The remaining enumeration of error is moot. Judgment reversed. All the Justices concur.