

COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY

State ex rel. Lundeen v. Miday

2026-Ohio-1458 · No. 115697 · Decided April 23, 2026

SUMMARY

The Eighth District Court of Appeals dismissed the Lundeens’ mandamus complaint seeking to compel a common pleas judge to vacate an order dismissing their false-light counterclaim. The court held that the judge possessed subject-matter jurisdiction, any alleged error was voidable rather than void, and an appeal provided an adequate remedy. The court also declared the Lundeens vexatious litigators under its local rule and imposed filing restrictions.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Anita Laster Mays; Eileen A. Gallagher; Deena R. Calabrese
JURISDICTION	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
DECIDED	April 23, 2026
DOCKET	115697
DISPOSITION	dismissed
PROCEDURAL POSTURE	Original mandamus action by relators seeking to compel a common pleas court judge to vacate an order dismissing their counterclaim; the respondent judge moved to dismiss.
STANDARD OF REVIEW	On a motion to dismiss a mandamus complaint, the court determines whether the relators have established a clear legal right to relief, a clear legal duty on the respondent, and the lack of an adequate remedy in the ordinary course of law. The court accepts material allegations as true and draws reasonable inferences in favor of the nonmoving party.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	James E. Lundeen, Cynthia M. Lundeen, Sir Isaac Newton Enterprises, LLC v. Sherrie Miday, Judge

TOPICS

writ of certiorari

motion for judgment on the pleadings

subject matter jurisdiction

appellate procedure

remedies

PRACTICE AREAS

Civil procedure

Appellate procedure

Extraordinary writs

QUESTIONS PRESENTED

1. Whether the relators were entitled to a writ of mandamus compelling Judge Miday to vacate the dismissal of their counterclaim.
2. Whether Judge Miday lacked subject-matter jurisdiction to rule on a Civ.R. 12(C) motion because no answer had been filed to the counterclaim.
3. Whether an appeal from the dismissal constituted an adequate remedy that precluded mandamus.
4. Whether the court should declare the relators vexatious litigators and restrict their pro se filings in the Eighth District.

HOLDINGS

1. Mandamus was unavailable because the relators failed to establish a clear legal right to vacatur, a clear legal duty requiring Judge Miday to vacate the judgment, and the absence of an adequate remedy in the ordinary course of law.
2. When a specific action falls within a court's subject-matter jurisdiction, an error in exercising that jurisdiction renders the judgment voidable rather than void, and extraordinary relief is unavailable to attack the judgment.
3. The court sua sponte declared the Lundeens vexatious litigators and prohibited them from filing or continuing pro se appeals, original actions, or motions in the Eighth District without first obtaining leave and satisfying filing-fee and security-for-costs requirements.

KEY QUOTATIONS

“when a specific action is within a court’s subject-matter jurisdiction, any error in the exercise of that jurisdiction renders the court’s judgment voidable, not void.” (II.A)

“When a court possesses basic subject-matter jurisdiction to act, and an appeal is available, a writ will not issue.” (II.A)

FACTUAL BACKGROUND

An eviction action was filed against the Lundeens in Cleveland Heights Municipal Court and was transferred to the Cuyahoga County Court of Common Pleas after the Lundeens filed a counterclaim seeking more than \$25,000 for false-light invasion of privacy. Judge Miday, the assigned common pleas judge, granted a Civ.R. 12(C) motion and dismissed the counterclaim with prejudice. The Lundeens sought mandamus, arguing that Judge Miday lacked jurisdiction to decide the motion because no answer had been filed in response to the counterclaim.

PROCEDURAL HISTORY

The relators filed a counterclaim for false-light invasion of privacy in an eviction action originally brought in municipal court. After the matter was transferred to the Cuyahoga County Court of Common Pleas, Judge Miday granted the plaintiff's Civ.R. 12(C) motion and dismissed the counterclaim with prejudice. The relators then filed this mandamus action seeking to compel Judge Miday to vacate that judgment. The Court of Appeals granted the respondent's motion to dismiss and dismissed the complaint.

DISPOSITION

dismissed

CASES CITED

- State ex rel. Parisi v. Heck, 2013-Ohio-4948, ¶ 4 (2d Dist.)
- State ex rel. Willis v. Sheboy, 6 Ohio St.3d 167, 168 (1983)
- State ex rel. Fed. Homes Properties, Inc. v. Singer, 9 Ohio St.2d 95, 96 (1967)
- State ex rel. Richardson v. Gowdy, 2023-Ohio-976, ¶ 12
- State ex rel. Waters v. Spath, 2012-Ohio-69, ¶ 6
- State ex rel. Luoma v. Russo, 2014-Ohio-4532, ¶ 8
- State ex rel. Peoples v. Johnson, 2017-Ohio-9140, ¶ 11
- Jackson v. Johnson, 2013-Ohio-999, ¶ 11
- State ex rel. Gaydosh v. Twinsburg, 93 Ohio St.3d 576, 578 (2001)
- State ex rel. Rootstown Local School Dist. Bd. of Edn. v. Portage Cty. Court of Common Pleas, 78 Ohio St.3d 489, 492 (1997)
- State ex rel. Gilligan v. Hoddinott, 36 Ohio St.2d 127, 132 (1973)
- Ohio High School Athletic Assn. v. Ruehlman, 2019-Ohio-2485, ¶ 7
- Yousef v. Yousef, 2019-Ohio-3656, ¶ 9 (8th Dist.)
- State v. Harper, State v. Harper, 2020-Ohio-2913, ¶ 26
- State ex rel. Davic v. Franklin Cty. Court of Common Pleas, 2023-Ohio-4569, ¶ 15
- France v. Celebrezze, 2012-Ohio-5085, ¶ 10 (8th Dist.)
- State ex rel. Richard v. Cuyahoga Cty. Bd. of Commrs., 100 Ohio App.3d 592, 598 (8th Dist. 1995)
- State v. Henderson, 2014-Ohio-2274 (8th Dist.)
- State ex rel. McGrath v. McClelland, 2012-Ohio-157 (8th Dist.)