

NINTH DISTRICT COURT OF APPEALS OF OHIO

Smith v. Akron Mun. Court

2021-Ohio-1388 (Ohio Ct. App. 2021) · No. C.A. No. 29965 · Decided April 20, 2021

SUMMARY

The Ninth District Court of Appeals of Ohio sua sponte dismissed Ronald Smith’s petition for a writ of prohibition seeking to prevent an eviction ordered in an Akron Municipal Court forcible-entry-and-detainer action. The court held that Smith failed to name the proper respondents, the municipal court was not sui juris, and the petition did not establish a patent and unambiguous lack of jurisdiction. The court further concluded that an appeal provided an adequate remedy at law.

CASE DETAILS

COURT	Ninth District Court of Appeals of Ohio
WRITING FOR THE COURT	Per Curiam; Donna J. Carr; Teodosi[o]; Callahan
JURISDICTION	Ohio
DECIDED	April 20, 2021
DOCKET	C.A. No. 29965
DISPOSITION	dismissed
PROCEDURAL POSTURE	Original action in prohibition brought by a defendant in a forcible entry and detainer action seeking to prevent a scheduled eviction and set aside the magistrate's eviction ruling. The Court of Appeals dismissed the petition sua sponte.
STANDARD OF REVIEW	Sua sponte dismissal without notice is appropriate when a prohibition petition is frivolous or the claimant obviously cannot prevail on the facts alleged.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion; precedential.
PARTIES	Ronald Smith v. Akron Municipal Court, Magistrate Kani Hightower

TOPICS

[eviction](#)[subject matter jurisdiction](#)[personal jurisdiction](#)[appellate procedure](#)[civil procedure](#)

PRACTICE AREAS

[civil procedure](#)[appellate procedure](#)[municipal law](#)[landlord-tenant law](#)

QUESTIONS PRESENTED

1. Whether the prohibition petition could be dismissed sua sponte because Smith failed to name the proper respondent.
2. Whether Smith established that the Akron Municipal Court or its magistrate patently and unambiguously lacked subject-matter or personal jurisdiction.
3. Whether an appeal from the trial court's eviction order provided an adequate remedy at law, defeating prohibition.

HOLDINGS

1. The petition could not succeed because it failed to name the trial court judge who entered the order granting the eviction, and the Akron Municipal Court was not a proper respondent because a court is not sui juris absent express statutory authority.
2. Smith did not establish a patent and unambiguous lack of jurisdiction warranting a writ of prohibition.
3. An appeal from the trial court's eviction order provided an adequate remedy at law, so prohibition was unavailable.
4. Sua sponte dismissal without notice was proper because Smith obviously could not prevail on the facts alleged in the petition.

KEY QUOTATIONS

“the purpose of a writ of prohibition is to restrain inferior courts and tribunals from exceeding their jurisdiction.” (§7)

“A writ of prohibition “tests and determines solely and only the subject matter jurisdiction” of the lower court.” (§7)

FACTUAL BACKGROUND

Ronald Smith was the defendant in a forcible entry and detainer action in the Akron Municipal Court. The magistrate issued an eviction decision, and the trial court judge adopted that decision and authorized a writ of restitution. Smith alleged that the magistrate lacked personal jurisdiction because the eviction plaintiff was not the real party in interest and also alleged errors in the magistrate's assessment of the facts. The eviction was scheduled to occur shortly after Smith filed his prohibition petition.

PROCEDURAL HISTORY

Smith was the defendant in an eviction action pending in the Akron Municipal Court. On April 9, 2021, Magistrate Kani Hightower issued a magistrate's decision, and the trial court judge adopted it and ordered that a writ of restitution be allowed. Smith filed a prohibition petition in the Ninth District on April 19, 2021, naming the magistrate and Akron Municipal Court but not the trial court judge. The Court of Appeals dismissed the petition sua sponte because Smith named an improper respondent, failed to show a patent and unambiguous lack of jurisdiction, and had an adequate remedy by appeal.

DISPOSITION

dismissed

CASES CITED

- State ex rel. Jones v. Garfield Hts. Mun. Court, 77 Ohio St.3d 447, 448 (1997)
- State ex rel. Duran v. Kelsey, 106 Ohio St.3d 58, 2005-Ohio-3674, ¶ 7
- State ex rel. Jones v. Suster, 84 Ohio St.3d 70, 73 (1998)
- State ex rel. Eaton Corp. v. Lancaster, 40 Ohio St.3d 404, 409 (1988)
- Malone v. Court of Common Pleas of Cuyahoga Cty., 45 Ohio St.2d 245, 248 (1976)
- Brooks v. Gaul, 89 Ohio St.3d 202, 203 (2000)
- Ohio High School Athletic Assn. v. Ruehlman, 157 Ohio St.3d 296, 2019-Ohio-2845, ¶ 9 & n.1
- State ex rel. Connor v. McGough, 46 Ohio St.3d 188 (1989)