

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

LAWRENCE BLACK

Petitioner

-VS-

TOWNSHIP OF MCKINLEY,
CITY OF CANTON

Respondents

JUDGES:

Hon. Patricia A. Delaney, P.J.

Hon. William B. Hoffman, J.

Hon. Earle E. Wise, Jr., J.

Case No. 2017CA00133

OPINION

CHARACTER OF PROCEEDING:

Writ of Prohibition

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

August 28, 2017

APPEARANCES:

For Petitioner

For Respondents

LAWRENCE BLACK, PRO SE
1511 Maple Ave N.E.
Canton, Ohio 44705

NO APPEARANCE

Hoffman, J.

{¶1} Petitioner, Lawrence Black, has filed a “Notice.” The pleading is not in a complaint or petition format. The notice does not contain any requested relief. The notice reads in its entirety, “Notice to this Court of Appeals of Lawrence Black’s Peremptory Writ of Prohibition. Judge Mary Falvey is forcing proceeding on Lawrence Black which was filed first by Darla S. Hinderer, and letter was to Judge Falvey 12 Jul 17. Darla S. Hinderer writting (sic) dismissed charges, Judge Falvey is attempting to try and convict.” (Citations omitted). Attached to the notice is what appears to be a proposed order for a peremptory writ of prohibition.

{¶2} In order for a writ of prohibition to issue, petitioner must prove that: (1) the lower court is about to exercise judicial authority; (2) the exercise of authority is not authorized by law; and, (3) the petitioner has no other adequate remedy in the ordinary course of law if a writ of prohibition is denied. *State ex rel. Keenan v. Calabrese* (1994), 69 Ohio St.3d 176, 178, 631 N.E.2d 119. A writ of prohibition, regarding the unauthorized exercise of judicial power, will only be granted where the judicial officer’s lack of subject-matter jurisdiction is patent and unambiguous. *Ohio Dept. of Adm. Serv., Office of Collective Bargaining v. State Emp. Relations Bd.* (1990), 54 Ohio St.3d 48, 562 N.E.2d 125.

{¶3} The named Respondents in this case are the Township of McKinley and City of Canton. A writ of prohibition is used to limit judicial authority. The township and city do not have judicial authority, therefore, prohibition cannot lie to prevent the township or city from acting.

{¶4} Because prohibition does not lie against the named Respondents, the cause is dismissed for failure to state a claim upon which relief may be granted.

By: Hoffman, J.

Delaney, P.J. and

Wise, Earle, J. concur