

[Cite as *State ex rel. Gray v. McDonnell*, 2018-Ohio-692.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 106455

STATE OF OHIO, EX REL.
RICARDO GRAY

RELATOR

vs.

JUDGE NANCY R. McDONNELL

RESPONDENT

JUDGMENT:
COMPLAINT DISMISSED

Writ of Prohibition
Motion No. 512398
Order No. 514446

RELEASE DATE: February 21, 2018

FOR RELATOR

Ricardo Gray, pro se
Inmate No. 368431
Ohio State Penitentiary
878 Coitsville-Hubbard Road
Youngstown, Ohio 44505

ATTORNEYS FOR RESPONDENT

Michael C. O'Malley
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

SEAN C. GALLAGHER, J.:

{¶1} Ricardo Gray has filed a complaint for a writ of prohibition. Gray seeks an order from this court that requires Judge Nancy R. McDonnell, in *State v. Gray*, Cuyahoga C.P. No. CR-98-369837, to vacate his conviction and sentence for the offenses of murder, felonious assault, and firearm specifications. Judge McDonnell has filed a motion to dismiss that is granted for the following reasons.

{¶2} A writ of prohibition is designed to prevent a tribunal from proceeding in a matter in which it is not authorized to hear and determine, or in which it seeks to usurp or exercise jurisdiction with which it has not been invested by law. *State ex rel. Doe v. Tracy*, 51 Ohio App.3d 198, 555 N.E.2d 674 (12th Dist.1988). It is well established that the purpose of a writ of prohibition is to prevent inferior courts and tribunals from usurping jurisdiction beyond that with which they have been granted by law. *State ex rel. White v. Junkin*, 80 Ohio St.3d 335,

1997-Ohio-340, 686 N.E.2d 267. Where a court possesses general subject-matter jurisdiction over a pending action, a writ of prohibition will not issue to prevent an error of law. *State ex rel. Bell v. Pfeiffer*, 131 Ohio St.3d 114, 2012-Ohio-54, 961 N.E.2d 181; *State ex rel. Winnefeld v. Court of Common Pleas of Butler Cty.*, 159 Ohio St. 225, 112 N.E.2d 27 (1953).

{¶3} If a court patently and unambiguously lacks general subject-matter jurisdiction, a writ of prohibition will issue to correct the results of prior unauthorized actions. *State ex rel. Cordray v. Marshall*, 123 Ohio St.3d 229, 2009-Ohio-4986, 915 N.E.2d 633. However, if a court does not *patently and unambiguously* lack general subject-matter jurisdiction, prohibition will not issue and the issue of jurisdiction must be addressed through an appeal. *State ex rel. Bradford v. Trumbull Cty. Court*, 64 Ohio St.3d 502, 1992-Ohio-132, 597 N.E.2d 116; *State ex rel. Pearson v. Moore*, 48 Ohio St.3d 37, 548 N.E.2d 945 (1990).

{¶4} Herein, Gray argues that Judge McDonnell lacked jurisdiction in the underlying criminal case, CR-98-369837, based upon the claims that: (1) Arthur Jackson and Anthony Mixon, both witnesses for the state at trial, lied and committed perjury; and (2) the state failed to provide information to counsel concerning another suspect named Bennie Kern.

{¶5} Initially, we find that Judge McDonnell possessed the necessary jurisdiction to preside over Gray's criminal case pursuant to R.C. 2931.03. *State ex rel. Pruitt v. Donnelly*, 129 Ohio St.3d 498, 2011-Ohio-4203, 945 N.E.2d 117; *State ex rel. Plant v. Cosgrove*, 119 Ohio St.3d 264, 2008-Ohio-3838, 893 N.E.2d 485; *State ex rel. Cunningham v. Lindeman*, 126 Ohio St.3d 481, 2010-Ohio-4388, 935 N.E.2d 393.

{¶6} In addition, we find that the claims of perjured testimony and failure to provide the information about another suspect were considered in prior appeals. *See State v. Gray*, 8th Dist. Cuyahoga No. 103087 (June 23, 2015) (motion for delayed appeal denied); *State v. Gray*, 8th

Dist. Cuyahoga No. 96956 (June 28, 2011) (dismissed as untimely filed); *State v. Gray*, 8th Dist. Cuyahoga No. 92646, 2012-Ohio-3565; *State v. Gray*, 8th Dist. Cuyahoga No. 84677, 2004-Ohio-7030; and *State v. Gray*, 8th Dist. Cuyahoga No. 82841, 2003-Ohio-6643. Because this court has already addressed the claims of perjured testimony and failure to provide information about another suspect, the doctrine of res judicata bars any further consideration, and Gray's complaint for a writ of prohibition must fail. *State v. Szefcyk*, 77 Ohio St.3d 93, 671 N.E.2d 233 (1996); *State v. Perry*, 10 Ohio St.2d 175, 226 N.E.2d 104 (1967).

{¶7} Accordingly, we grant Judge McDonnell's motion to dismiss. Costs to Gray. The court directs the clerk of courts to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶8} Complaint dismissed.

SEAN C. GALLAGHER, JUDGE

TIM McCORMACK, P.J., and
EILEEN T. GALLAGHER, J., CONCUR