

OPINIONS OF THE SUPREME COURT OF OHIO

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The State ex rel. Aloï, Appellant, v. Klide, Judge, Appellee.  
[Cite as State ex rel. Aloï v. Klide (1993), Ohio  
St.3d .]

Mandamus not a substitute for appeal.

(No. 93-695 -- Submitted June 15, 1993 -- Decided  
October 13, 1993.)

Appeal from the Court of Appeals for Stark County, No.  
CA-9233.

Appellant, Tony Aloï, filed a complaint for a writ of mandamus in the court of appeals, seeking to compel appellee, Judge Harry E. Klide, of the Court of Common Pleas of Stark County, to rule on four outstanding motions in a case in which appellant is a defendant. Three days later, the court of appeals dismissed the complaint sua sponte, holding that appeal was an adequate remedy at law.

The cause is before this court upon an appeal as of right.

Tony Aloï, pro se.

Robert D. Horowitz, Stark County Prosecuting Attorney, and  
Arthur S. Leb, Assistant Prosecuting Attorney, for appellee.

Per Curiam. We are aware of no procedural rule that authorizes a court to dismiss a complaint summarily on a question of law. See State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs. (1992), 65 Ohio St.3d 545, 605 N.E.2d 378. Nevertheless, upon review of the arguments and exhibits submitted in this court, we affirm the judgment of the court of appeals.

We note that while some issues in the underlying action in appellee's court have been decided, an action for damages remains. Therefore, appellee may yet rule on the appellant's motions, and, if he fails to do so, any legal injury appellant suffers may be addressed on appeal.

Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.