

THE STATE EX REL. SIMMS, APPELLANT, v. SUTULA, JUDGE, APPELLEE.

[Cite as *State ex rel. Simms v. Sutula*, 1998-Ohio-644.]

Procedendo—Motion for writ of procedendo to compel court of common pleas judge to determine relator’s pending motion for production of transcripts and other documents—Motion dismissed, when—Original actions for extraordinary relief must be commenced by filing a complaint or petition rather than a motion.

(No. 97-1812—Submitted December 2, 1997—Decided February 18, 1998.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 72896.

{¶ 1} In July 1997, appellant, Timothy Simms, Jr., filed a motion in the Court of Appeals for Cuyahoga County for a writ of procedendo to compel appellee, Cuyahoga County Common Pleas Court Judge Kathleen Sutula, to determine Simms’s pending motion for production of transcripts and other documents. The court of appeals dismissed the motion.

{¶ 2} The cause is now before the court upon an appeal as of right.

Timothy Simms, Jr., pro se.

Per Curiam.

{¶ 3} We affirm the judgment of the court of appeals. The court of appeals correctly held that original actions for extraordinary relief, *e.g.*, a writ of procedendo, must be commenced by filing a complaint or petition rather than a motion. Civ.R. 3(A) (“A civil action is commenced by filing a complaint with the court * * *.”); Loc.App.R. 8(B)(1) of the Court of Appeals for the Eighth Appellate District (“These original actions shall be instituted by the filing of a verified

SUPREME COURT OF OHIO

complaint * * *.”); cf. *Myles v. Wyatt* (1991), 62 Ohio St.3d 191, 580 N.E.2d 1080, 1081, where we affirmed the dismissal of a motion for a writ of mandamus.

Judgment affirmed.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and
LUNDBERG STRATTON, JJ., concur.
