

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Shane R. Oronoz,	:	
Relator,	:	
v.	:	No. 12AP-957
State of Ohio,	:	(REGULAR CALENDAR)
Respondent].	:	

D E C I S I O N

Rendered on July 30, 2013

Shane R. Oronoz, pro se.

Richard C. Pfeiffer, Jr., City Attorney, and Melanie R. Tobias,
for respondent.

IN MANDAMUS
ON RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

TYACK, J.

{¶ 1} Shane R. Oronoz filed this action in mandamus seeking a writ to compel a judge of the Franklin County Municipal Court to rule on various motions filed by Oronoz.

{¶ 2} In accord with Loc.R. 13(M) of the Tenth District Court of Appeals, the case was referred to a magistrate of this court to conduct appropriate proceedings. Counsel for the judge filed motions to dismiss, which were converted to a motion for summary judgment. The magistrate issued a decision, appended hereto, which recommends that summary judgment be granted and the request for a writ denied.

{¶ 3} No party has filed objections to the magistrate's decision. We find no error of law or fact on the face of the magistrate's decision. We, therefore, adopt the findings of

fact and conclusions of law contained in the magistrate's decision and grant summary judgment for the judge. The writ is denied.

*Summary judgment granted;
writ of mandamus denied.*

SADLER and DORRIAN, JJ., concur.

APPENDIX**IN THE COURT OF APPEALS OF OHIO****TENTH APPELLATE DISTRICT**

[Shane R. Oronoz,	:	
	:	
Relator,	:	No. 12AP-957
	:	
v.	:	(REGULAR CALENDAR)
	:	
State of Ohio,	:	
	:	
Respondent.]	:	

MAGISTRATE'S DECISION

Rendered on May 16, 2013

Shane R. Oronoz, pro se.

Richard C. Pfeiffer, Jr., City Attorney, and Melanie R. Tobias, for respondent.

**IN MANDAMUS
ON RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

{¶ 4} In this original action, relator, Shane R. Oronoz, acting pro se, requests a writ of mandamus ordering the Honorable James P. O'Grady ("Judge O'Grady"), a judge of the Franklin County Municipal Court ("municipal court") to issue written entries ruling upon relator's motion for jury trial and change of venue, and his motion to dismiss that he filed in the municipal court in a criminal case in which relator is the defendant.

Findings of Fact:

{¶ 5} 1. On November 13, 2012, relator filed this original action for a writ of mandamus. While Judge O'Grady is not named as a respondent in the caption of the

complaint, it is clear that Judge O'Grady is the intended respondent. Therefore, Judge O'Grady shall be referred to as the respondent in this magistrate's decision.

{¶ 6} 2. On November 27, 2012, respondent filed a motion to dismiss. In his memorandum in support, respondent points out that this action was not brought in the name of the state on the relation of Shane R. Oronoz. Respondent also points out that respondent was not named as a respondent in the caption of the complaint.

{¶ 7} 3. On December 4, 2012, the magistrate issued an order (mistakenly captioned as a journal entry) stating that relator shall file his written response to respondent's motion to dismiss no later than December 21, 2012.

{¶ 8} 4. On January 22, 2013, respondent filed another motion to dismiss. Attached to respondent's memorandum in support is a copy of an "Entry and Order" of Judge O'Grady filed December 20, 2012 in case number 2012 CRB 025705. The entry and order states:

This matter came on before the court upon Defendant's Motion for Jury Trial and Change of Venue; and Defendant's Motion to Dismiss.

After a review of the pleadings in this case the court finds as follows:

Defendant's motion for jury trial is overruled as Defendant is charged with two minor misdemeanors and is not entitled to a jury trial per the U.S. Constitution, as well as O.R.C. §2945.17.

Defendant's motion for change of venue is overruled as Defendant has not demonstrated any reason that this court is not the proper venue.

Defendant's motion to dismiss is overruled as this court is the proper venue and has jurisdiction over misdemeanor cases as granted to it by the Ohio Revised Code §1901.01. Additionally the Defendant has failed to follow Crim. R. 47 by not stating with particularity the grounds for his motion to dismiss.

It is so Ordered.

{¶ 9} 5. On January 23, 2013, the magistrate issued an order converting respondent's January 22, 2013 motion to dismiss to one for summary judgment. The order provides notice that respondent's January 22, 2013 motion for summary judgment is set for submission to the magistrate on February 13, 2013.

{¶ 10} 6. On February 13, 2013, relator filed a document captioned "Relator[']s Reply To Respondent[']s Motion To Dismiss And Petition For Injunctive Relief In The Form Of An Affidavit" ("reply"). With his reply, relator submits copies of motions he apparently filed in the municipal court as well as a transcript of proceedings taken on October 30, 2012 in relator's criminal case in the municipal court. Generally speaking, relator's February 13, 2013 filing is unresponsive to respondent's motion for summary judgment.

{¶ 11} 7. On March 18, 2013, relator filed a two-page entry filed in the municipal court on March 6, 2013. This filing is also unresponsive to the motion for summary judgment.

Conclusions of Law:

{¶ 12} It is the magistrate's decision that this court grant respondent's motion for summary judgment.

{¶ 13} Summary judgment is appropriate when the movant demonstrates that: (1) there is no genuine issue of material fact; (2) the moving party is entitled to judgment as a matter of law; and (3) reasonable minds can come to but one conclusion, and that conclusion is adverse to the party against whom the motion for summary judgment is made, said party being entitled to have the evidence construed most strongly in his favor. *Turner v. Turner*, 67 Ohio St.3d 337, 339-40 (1993); *Bostic v. Connor*, 37 Ohio St.3d 144, 146 (1988); *Harless v. Willis Day Warehousing Co.*, 54 Ohio St.2d 64, 66 (1978). The moving party bears the burden of proving no genuine issue of material fact exists. *Mitseff v. Wheeler*, 38 Ohio St.3d 112, 115 (1988).

{¶ 14} Civ.R. 56(E) states:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the party's pleadings, but the party's response, by affidavit or as otherwise provided in this rule, must set forth specific facts

showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party.

{¶ 15} Relator's failure to respond to the motion for summary judgment indicates that summary judgment is appropriate here. It is undisputed that relator has received from respondent the relief relator has requested in this action.

{¶ 16} Accordingly, it is the magistrate's decision that this court grant respondent's motion for summary judgment.

/S/ MAGISTRATE
KENNETH W. MACKE

NOTICE TO THE PARTIES

Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).