

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

PRINCE CHARLES D. COTTON, SR.	:	JUDGES:
	:	Hon. William B. Hoffman, P.J.
Relator	:	Hon. Sheila G. Farmer, J.
	:	Hon. John W. Wise, J.
-vs-	:	
	:	
JAMES DeWEESE, JUDGE, ET AL	:	Case No. 15CA5
	:	
Respondents	:	<u>OPINION</u>

CHARACTER OF PROCEEDING:	Writ of Prohibition
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JUDGMENT:	Denied
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DATE OF JUDGMENT:	September 16, 2015
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APPEARANCES:

For Respondents

BAMBI COUCH PAGE
Prosecuting Attorney
By: STEPHEN M. WILDERMUTH
Assistant Prosecutor
38 South Park Street
Mansfield, OH 44902
Farmer, J.

For Relator

CHARLES D. COTTEN, SR.
Inmate No. 146 900 1C B102
P. O. Box 788
Mansfield, OH 44901

{¶1} Relator, Charles D. Cotten, has filed a complaint requesting this Court issue a writ of prohibition against respondent, Judge James DeWeese and Sheriff Steve Sheldon. Essentially, Relator believes the trial court lacked jurisdiction over a foreclosure case based upon a claim of unpaid taxes. He specifically argues proper notice procedures were not used prior to the initiation of court action.

{¶2} Ohio Revised Code Section 5721.18 provides in relevant part, “The county prosecuting attorney, upon the delivery to the prosecuting attorney by the county auditor of a delinquent land or delinquent vacant land tax certificate, or of a master list of delinquent or delinquent vacant tracts, shall institute a foreclosure proceeding under this section in the name of the county treasurer to foreclose the lien of the state, in any court with jurisdiction . . .”

{¶3} 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. *State ex rel. Daniels v. Harris* 2008 WL 5197131, 1 (Ohio App. 5 Dist.).

{¶4} Respondent DeWeese is a judge in the court of common pleas which has jurisdiction over foreclosure cases. Pursuant to R.C. 2305.01, the trial court has basic subject matter jurisdiction over foreclosure actions. Relator has not demonstrated

Respondent patently and unambiguously lacks jurisdiction over the foreclosure case. Further, to the extent Relator disagreed with the foreclosure, he has or had an adequate remedy at law relative to both respondents by way of appeal to challenge the foreclosure.

{¶5} For these reasons, the writ of prohibition does not lie and will not issue.

By Farmer, J.

Hoffman, P.J. and

Wise, J. concur.

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