

COURT OF APPEALS
TUSCARAWAS COUNTY, OHIO
FIFTH APPELLATE DISTRICT

JON T. HARMON

Petitioner

-vs-

EDWARD EMIT O'FARRELL

Respondent

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JUDGES:

Hon. Sheila G. Farmer, P.J.

Hon. William B. Hoffman, J.

Hon. John W. Wise, J.

Case No. 2015 AP 11 0060

O P I N I O N

CHARACTER OF PROCEEDING:

Writ of Prohibition

JUDGMENT:

Dismissed

DATE OF JUDGMENT:

October 17, 2016

APPEARANCES:

For Relator

JON T. HARMON, Pro Se
238 May Road N. W.
New Philadelphia, OH 44663

For Respondents

NO APPEARANCE

Farmer, J.

{¶1} Petitioner, Jon Harmon, has filed a Petition for Writ of Prohibition requesting this Court issue a writ preventing Respondent from holding a trial in the criminal case of Petitioner's wife, Dianna Harmon.

{¶2} "To be entitled to the requested writ of prohibition, petitioner must establish that (1) the court is about to exercise or has exercised judicial power, (2) the exercise of that power is unauthorized by law, and (3) denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of law. *State ex rel. Bell v. Pfeiffer*, 131 Ohio St.3d 114, 2012–Ohio–54, 961 N.E.2d 181, ¶ 18; *State ex rel. Miller v. Warren Cty. Bd. of Elections*, 130 Ohio St.3d 24, 2011–Ohio–4623, 955 N.E.2d 379, ¶ 12." *State ex rel. Walton v. Williams*, 145 Ohio St.3d 469, 471, 2016–Ohio–1054, 50 N.E.3d 520, 523, ¶ 13 (2016).

{¶3} 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.

{¶4} We find Jon Harmon lacks standing to bring an action in prohibition as it relates to another person's criminal case. "It is elementary that every action shall be prosecuted in the name of the real party in interest * * *." *State ex rel. Dallman v. Court of Common Pleas*, 35 Ohio St.2d 176, 178, 298 N.E.2d 515 (1973), citing Civ.R. 17(A) and *Cleveland Paint & Color Co. v. Bauer Mfg. Co.*, 155 Ohio St. 17, 97 N.E.2d 545, N.E.2d 545 (1951), paragraph one of the syllabus. "A party lacks standing to invoke the

jurisdiction of the court unless he has, in an individual or representative capacity, some real interest in the subject matter of the action.” *Id.* at syllabus.

{¶5} Further, according to trial court’s online docket system, the case in question was dismissed with prejudice by the trial court on August 17, 2016 making the instant petition moot.

{¶6} For these reasons, the petition for writ of prohibition is dismissed.

By Farmer, P.J.

Hoffman.J. and

Wise, J. concur.

SGF/as 929