

[Cite as *State ex rel. Rowan v. Probate Court of Cuyahoga Cty.*, 2005-Ohio-756.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 85660

STATE OF OHIO, EX REL.,	:	ORIGINAL ACTION
HAYES W. ROWAN	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
PROBATE COURT OF CUYAHOGA	:	
COUNTY	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: FEBRUARY 23, 2005

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Dismissed.
Motion No. 36772
Order No. 368679

APPEARANCES:

For Relator: HAYES W. ROWAN, pro se
1727 West 32nd Street
Cleveland, Ohio 44113

For Respondent: WILLIAM D. MASON
Cuyahoga County Prosecutor
BY: CHARLES E. HANNAN, JR.
Assistant County Prosecutor
Justice Center - 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

Patricia A. Blackmon, J.:

{¶ 1} Hayes W. Rowan has filed a complaint for a writ of a mandamus. Rowan seeks an order from this court which requires the Cuyahoga County Probate Court ("probate court"), in Cuyahoga County Probate Court Case No. 2000-GDN-0951350, "... to set the 20th December 2004 hearing, and all future hearings, on the docket as a jury action, and directing all hearings be recorded by videotape."

The probate court has filed a motion to dismiss which we grant for the following reasons.

{¶ 2} In order for this court to issue a writ of mandamus, Rowan must demonstrate that: (1) he possesses a clear legal right which requires that all proceeding held in the probate court be held before a jury and that all proceeding be recorded on video tape; (2) the probate court possesses a clear legal duty to conduct all proceedings before a jury and that all proceedings be recorded on video tape; and (3) there exists no plain and adequate remedy in the ordinary course of the law. *State ex rel. Harris v. Rhodes* (1978), 54 Ohio St.2d 41, 374 N.E.2d 641; *State ex rel. National City Bank v. Board of Education* (1977), 52 Ohio St.2d 81, 369 N.E.2d 1200. Herein, Rowan has failed to establish each of the aforesaid three prongs. Rowan is not entitled to have a jury adjudicate the action in Cuyahoga County Probate Court Case No. 2000-GDN-0951350 nor is there any requirement that any proceedings

in the probate court be recorded on videotape. Finally, any procedural or substantive errors, as potentially committed by the probate court, can be addressed through a direct appeal. *Fraiberg v. Cuyahoga Cty. Court of Common Pleas, Domestic Relations Div.* (1996), 76 Ohio St.3d 374, 667 N.E.2d 1189.

{¶ 3} Accordingly, we grant the motion to dismiss. Costs to Rowan. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as mandated by Civ.R. 58(B).

Dismissed.

PATRICIA A. BLACKMON
ADMINISTRATIVE JUDGE

ANTHONY O. CALABRESE, JR., J., CONCURS

KENNETH A. ROCCO, J., CONCURS