

[Cite as *State ex rel. Rashada v. Pianka*, 2006-Ohio-2584.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 87450

STATE OF OHIO, EX REL.	:	ORIGINAL ACTION
HANAN S. RASHADA	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
RAYMOND L. PIANKA, JUDGE	:	
	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: MAY 19, 2006

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Complaint Dismissed.
Motion No. 381003
Order No. 384112

APPEARANCES:

For Relator: HANAN S. RASHADA, pro se
P.O. Box 14211
Cleveland, Ohio 44114

For Respondent: ROBERT J. TRIOZZI
Director of Law
By: JOSEPH G. HAJJAR
Assistant Law Director
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114-1077

ANN DYKE, A.J.:

{¶1} Relator, Hanan S. Rashada, is the defendant/counterclaimant in *Cuyahoga Metro. Hous. Auth. v. Rashada*, Cleveland Mun. Court Case No. 2005 CVG 516, which has been assigned to respondent judge of the Cleveland Municipal Court. In Case No. 2005 CVG 516 the Cuyahoga Metropolitan Housing Authority ("CMHA") had filed an action in forcible entry and detainer and for money only. Rashada also filed a counterclaim asserting various causes of action.

{¶2} CMHA dismissed both claims in the complaint. Respondent granted, in part, CMHA's motion to dismiss Case No. 2005 CVG 516 and found that plaintiff failed to state a claim with respect to Rashada's claims for: personal injury, conversion and discrimination. Respondent entered judgment for CMHA with respect to Rashada's claim that she is entitled to have CMHA grant her request for transfer to another apartment.

{¶3} In this action in mandamus, Rashada requests that this court issue a writ of mandamus "compelling Respondent to grant an award for personal and punitive damages in the amount of TEN MILLION AND NO/100 DOLLARS (\$10,000,000.00) each in addition to whatever amount is appropriate to cover the costs of corrective surgeries and other medical procedures ***." Complaint, *ad damnum* clause.

{¶4} Respondent has filed a motion to dismiss this action because the complaint fails to aver facts which satisfy the requirements for an action in mandamus. Rashada has not opposed the

motion.

{¶5} The fundamental criteria for issuing a writ of mandamus are well-established:

"In order to be entitled to a writ of mandamus, relator must show (1) that he has a clear legal right to the relief prayed for, (2) that respondents are under a clear legal duty to perform the acts, and (3) that relator has no plain and adequate remedy in the ordinary course of the law. *State, ex rel. National City Bank v. Bd. of Education* (1977), 52 Ohio St. 2d 81, 369 N.E.2d 1200."

{¶6} *State ex rel. Harris v. Rhodes* (1978), 54 Ohio St.2d 41, 42, 374 N.E.2d 641. Of course, all three of these requirements must be met in order for mandamus to lie.

{¶7} Respondent argues that Rashada is unable to establish any of the three criteria. We agree. As is obvious from the portion of the complaint quoted above, Rashada requests that this court compel respondent judge to enter a specific judgment in Rashada's favor. Mandamus may not be used to compel a judge to enter a specific judgment. *State ex rel. White v. Suster*, Cuyahoga App. No. 79986, 2001-Ohio-4158, at 3-4. As a consequence, we must hold that relator does not have a clear legal right to relief and respondent does not have a clear legal duty to act.

{¶8} Additionally, Rashada has or had the opportunity to challenge the disposition of her counterclaim by way of appeal. "Mandamus is not a substitute for appeal. *** Furthermore, if the relator had an adequate remedy, regardless of whether it was used, relief in mandamus is precluded." *Id.* at 3. Rashada has or had an

adequate remedy in the ordinary course of the law by way of appeal from a final appealable order in Case No. 2005 CVG 516. As a consequence, we must hold that relief in mandamus is not appropriate in this action.

{¶9} Accordingly, respondent's motion to dismiss is granted. Relator to pay costs. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Complaint dismissed.

ANN DYKE
ADMINISTRATIVE JUDGE

PATRICIA A. BLACKMON, P.J., CONCURS

CHRISTINE T. MCMONAGLE, J., CONCURS