[Cite as *State ex rel. Henderson v. Sweeney*, 2015-Ohio-1745.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102681

STATE OF OHIO, EX REL.,
TROY HENDERSON

RELATOR

vs.

JUDGE KRISTIN SWEENEY AND CUYAHOGA COUNTY JUVENILE COURT

RESPONDENTS

JUDGMENT:
WRIT DISMISSED

Writ of Prohibition
Motion No. 484326
Order No. 484209

RELEASE DATE: May 6, 2015

FOR RELATOR

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ATTORNEYS FOR RESPONDENTS

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FRANK D. CELEBREZZE, JR., A.J.:

{¶1} On March 2, 2015, the relator, Troy Henderson, commenced this prohibition action against the respondents, Judge Kristin Sweeney and the Cuyahoga County Juvenile Court. Henderson seeks to prohibit the respondents from holding him in contempt for missing a hearing on December 29, 2014, in the underlying case, *In re J.H.*, Cuyahoga C.P. Juvenile Court Division No. PR 11 705281. He claims that he never received notice of the December 29, 2014 hearing and that the juvenile court entered a wrong address for him in its records in an effort to "railroad" him into jail and an unfair support order. He argues that without notice and service for that hearing, the respondents did not have jurisdiction over him for the hearing, and as a corollary they could not have jurisdiction over him for contempt.

{¶2} Thus, prohibition will lie to prevent them from punishing him for missing the hearing. For the following reasons, this court dismisses the application for a writ of prohibition, sua sponte.

{¶3} The principles governing prohibition are well established. Its requisites are (1) the respondent against whom it is sought is about to exercise judicial power, (2) the exercise of such power is unauthorized by law, and (3) there is no adequate remedy at law. *State ex rel. Largent v. Fisher*, 43 Ohio St.3d 160, 540 N.E.2d 239 (1989). Prohibition will not lie unless it clearly appears that the court has no jurisdiction of the cause that it is attempting to adjudicate or the court is about to exceed its jurisdiction. *State ex rel. Ellis v. McCabe*, 138 Ohio St. 417, 35 N.E.2d 571 (1941), paragraph three of the syllabus. "The writ will not issue to prevent an erroneous judgment, or to serve the purpose of appeal, or to correct mistakes of the lower court in deciding questions within its jurisdiction." *State ex rel. Sparto v. Juvenile Court of Darke Cty.*,

153 Ohio St. 64, 65, 90 N.E.2d 598 (1950). Furthermore, it should be used with great caution and not issue in a doubtful case. *State ex rel. Merion v. Tuscarawas Cty. Court of Common Pleas*, 137 Ohio St. 273, 28 N.E.2d 641 (1940); and *Reiss v. Columbus Mun. Court*, 76 Ohio Law Abs. 141, 145 N.E.2d 447 (10th Dist.1956). Nevertheless, when a court is patently and unambiguously without jurisdiction to act whatsoever, the availability or adequacy of a remedy is immaterial to the issuance of a writ of prohibition. *State ex rel. Tilford v. Crush*, 39 Ohio St.3d 174, 529 N.E.2d 1245 (1988); and *State ex rel. Csank v. Jaffe*, 107 Ohio App.3d 387, 668 N.E.2d 996 (8th Dist.1995). However, absent such a patent and unambiguous lack of jurisdiction, a court having general jurisdiction of the subject matter of an action has authority to determine its own jurisdiction. A party challenging the court's jurisdiction has an adequate remedy at law via an appeal from the court's holding that it has jurisdiction. *State ex rel. Rootstown Local School Dist. Bd. of Edn. v. Portage Cty. Court of Common Pleas*, 78 Ohio St.3d 489, 678 N.E.2d 1365 (1997). Moreover, this court has discretion in issuing the writ of prohibition. *State ex rel. Gilligan v. Hoddinott*, 36 Ohio St.2d 127, 304 N.E.2d 382 (1973).

{¶4} Henderson's claim for lack of jurisdiction because notice and service were not made is not cognizable in prohibition. In *State ex rel. Suburban Constr. Co. v. Skok*, 85 Ohio St.3d 645, 646, 70 N.E.2d 645 (1999), the Supreme Court of Ohio ruled "[i]f contested allegations of defective service of process are not premised upon a complete failure to comply with the minimum-contacts requirement of constitutional due process, prohibition will not lie." *State ex rel. Downs v. Panioto*, 107 Ohio St.3d 347, 2006-Ohio-8, 839 N.E.2d 911 and *State ex rel. Lavelle v. Karner*, 8th Dist. Cuyahoga No. 98962, 2012-Ohio-4297. There is no question that there are sufficient minimum contacts among the defendant, the forum state, and the litigation to

sustain personal jurisdiction. Henderson is an Ohio resident in an Ohio court, and he pursues litigation in the underlying case not to avoid paying child support, but to ensure that the support order is fair.

{¶5} Moreover, in contempt actions, the juvenile court has the same jurisdiction as courts of common pleas. R.C. 2151.21. Thus, the respondents have the basic statutory jurisdiction to conduct contempt hearings; this generally precludes prohibition from issuing to stop a contempt hearing. *State ex rel. Prentice v. Ramsey*, 8th Dist. Cuyahoga No. 89061, 2007-Ohio-533 and *Bonhert v. Russo*, 8th Dist. Cuyahoga No. 94103, 2009-Ohio-5707.

{¶6} Finally, adequate remedies at law also preclude the writ. Henderson indicates that he has not yet been found in contempt. Thus, he has the remedy to defend at the contempt hearing, inter alia, on the grounds that he did not receive notice or that the notice was sent to the wrong address. If necessary, he may appeal any finding of contempt and subsequent sentence and file a motion for stay as provided in the appellate rules to prevent execution of that sentence.

{¶7} Accordingly, this court dismisses the application for a writ of prohibition. Relator to pay costs. This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶8} Writ dismissed.

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FRANK D. CELEBREZZZE, JR., ADMINISTRATIVE JUDGE

LARRY A. JONES, SR., J., and
EILEEN T. GALLAGHER, J., CONCUR