

[Cite as *State ex rel. Baginski v. Lee*, 2016-Ohio-221.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103241

PEOPLE OF THE STATE OF OHIO UPON RELATION OF RONALD BAGINSKI

RELATOR

vs.

CHARLES LEE, ET AL.

RESPONDENTS

JUDGMENT:
WRIT DISMISSED

Writ of Mandamus
Motion Nos. 488463 and 488174
Order No. 491432

RELEASE DATE: January 15, 2016

FOR RELATOR

Ronald Baginski, pro se
3738 Highland Road
Cleveland, Ohio 44111

FOR RESPONDENTS

For Patrick Cooney
Donna Marcoguiseppe

Robert A. Hager
Daniel J. Rudary
Brennan Manna & Diamond L.L.C.
75 East Market Street
Akron, Ohio 44308

For Charles Lee
Jeffrey A. Lansky
Blair N. Melling
Miss Williams

John J. Montello
303 Columbus Road
Bedford, Ohio 44146

For John J. Montello

John J. Montello
303 Columbus Road
Bedford, Ohio 44146

EILEEN A. GALLAGHER, J.:

{¶1} On July 9, 2015, the relator, Ronald Baginski, commenced this public records mandamus action against the following respondents: (1) Charles Lee, a Maple Heights police officer; (2) the Clerk of the Maple Heights Mayor's Court, a Miss Williams; (3) Jeffrey Lansky, Mayor of Maple Heights; (4) Blair Melling, Prosecutor; (5) John Montello, Assistant Prosecutor; (6) Donna Marcoguiseppe, Clerk of Garfield Heights Municipal Court and (7) Patrick Cooney, Garfield Heights prosecutor. He seeks the respondents' oaths of office, bonds, and other qualifications to hold their offices. However, he attached to his complaint only the public records request for Officer Lee. On August 11, 2015, respondents Cooney and Marcoguiseppe filed their motion to dismiss and Baginski filed his brief in opposition to that motion on August 26, 2015. The other respondents moved to dismiss on August 19, 2015 and Baginski filed his brief in opposition on September 4, 2015. For the following reasons, this court grants the respondents' motions to dismiss and dismisses the application for a writ of mandamus.

{¶2} The underlying case is *Maple Hts. v. Baginski*, Garfield Heights Mun. No. TRD-15-02118, in which Baginski was charged with running a stop sign. Officer Lee issued the ticket on February 8, 2015 in the city of Maple Heights which is in the territorial jurisdiction of the Garfield Heights Municipal Court.

{¶3} Pursuant to the underlying case's docket, the case was initiated on March 18, 2015 and Baginski pleaded not guilty. At approximately the same time, he presented his public records requests to Officer Lee and Clerk Marcoguiseppe.¹ They are nearly identical and are four pages long. The request to the clerk also sought certified copies of the oaths and bonds for

¹Baginski attached his public records request for Marcoguiseppe to his August 26, 2015 brief in opposition. It is dated March 18, 2015.

Judges Deborah Nicastro and Jennifer P. Weiler. The court discerns that Baginski considered the issuing of the ticket a violation of his constitutional rights.²

{¶4} The Garfield Heights Municipal Court tried the underlying case on April 3, 2015, found Baginski guilty and fined him \$100.00. On May 5, 2015, Baginski filed a motion for reconsideration that the trial court denied on May 6, 2015. Baginski appealed the denial of the motion for reconsideration on June 5, 2015, *Maple Hts. v. Baginski*, 8th Dist. Cuyahoga No. 103145. This court dismissed the appeal on October 21, 2015, for lack of a final, appealable order because motions for reconsideration after the final judgment in the trial court are nullities. *Pitts v. Dept. of Transp.*, 67 Ohio St.2d 378, 423 N.E.2d 1105 (1981), and *Cleveland Hts. v. Richardson*, 9 Ohio App.3d 152, 458 N.E.2d 901 (8th Dist.1983).

{¶5} In his complaint and briefs in opposition, Baginski states that he seeks these records to attack the trial court's jurisdiction. Baginski posits that if the various officers and officials, such as Officer Lee and the prosecutors, do not have their oaths of offices and bonds on file, they are usurpers of the public authority and have no power to bring the charges. Without a valid charge, the trial court has no power, no jurisdiction, over the case. He seeks these records as discovery in a criminal case, and now that the case is completed, as a means to support a postconviction relief petition. In *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 437, 639 N.E.2d 83 (1994), the Supreme Court of Ohio held "that a defendant in a criminal case who has exhausted the direct appeals of her or his conviction may not avail herself or himself of R.C.

²In his complaint, Baginski stated that he could not understand how a police officer, a member of the executive branch, could issue a judicial summons. Baginski in his request invoked the federal Freedom of Information Act. However, that only applies to federal entities and not to Ohio offices and officials.

149.43 to support a petition for postconviction relief.” Therefore, on these facts, this court will not issue a writ of mandamus to enforce R.C. 149.43.

{¶6} Accordingly, this court grants the respondents’ motions to dismiss and dismisses this mandamus action. 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).

{¶7} Writ dismissed.

EILEEN A. GALLAGHER, JUDGE

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