

[Cite as *State ex rel. Rini v. Court of Common Pleas, Div. of Domestic Relations*, 2016-Ohio-406.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103496

STATE OF OHIO, EX REL.
BRYAN C. RINI

RELATOR

vs.

COURT OF COMMON PLEAS, DIVISION OF DOMESTIC RELATIONS, ET AL.

RESPONDENTS

JUDGMENT:
WRIT DENIED

Writ of Procedendo and Mandamus
Motion No. 490433
Order No. 492589

RELEASE DATE: January 29, 2016

FOR RELATOR

Bryan C. Rini, pro se
5799 Brookside Road
Independence, Ohio 44131

ATTORNEYS FOR RESPONDENTS

Timothy J. McGinty
Cuyahoga County Prosecutor
By: Charles E. Hannan
Assistant County Prosecutor
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

SEAN C. GALLAGHER, J.:

{¶1} On September 11, 2015, the relator, Bryan Rini, commenced this procedendo and mandamus action against the respondents, Judge Leslie Ann Celebrezze and Magistrate Patrick Kelly of the Cuyahoga County Common Pleas Court, Domestic Relations Division, to compel them to issue a final judgment in the underlying case, *Rini v. Rini*, Cuyahoga C.P. Domestic Relations Div. No. DV-13-349966. The relator alleges that the magistrate heard this matter in January 2014, but there has been no resolution.¹

{¶2} On October 27, 2015, the respondents moved for summary judgment on the grounds of mootness. Attached to this dispositive motion was a copy of a journal entry, file stamped October 27, 2015, signed by the respondents that granted the domestic protection order.

This entry establishes that the respondents had proceeded to judgment in the underlying matter and that the relator has received his requested relief, a judgment. The relator never filed a response. This writ action is moot.

{¶3} Accordingly, this court grants the respondents' motion for summary judgment and denies the application for a writ of procedendo and/or mandamus. Respondents to pay costs; costs waived. 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).

{¶4} Writ denied.

¹The writ of procedendo is merely an order from a court of superior jurisdiction to one of inferior jurisdiction to proceed to judgment. *Yee v. Erie Cty. Sheriff's Dept.*, 51 Ohio St.3d 43, 553 N.E.2d 1354 (1990). Procedendo is appropriate when a court has either refused to render a judgment or has unnecessarily delayed proceeding to judgment. *State ex rel. Watkins v. Eighth Dist. Court of Appeals*, 82 Ohio St.3d 532, 1998-Ohio-190, 696 N.E.2d 1079. However, the writ will not issue to control what the judgment should be, and it will not issue when there is an adequate remedy at law. *State ex rel. Hansen v. Reed*, 63 Ohio St.3d 597, 589 N.E.2d 1324 (1992).

Similarly, mandamus may be used to compel a court to fulfill a duty, like issue a ruling. The requisites for mandamus are well established: (1) the relator must have a clear legal right to the requested relief, (2) the respondent must have a clear legal duty to perform the requested relief and (3) there must be no adequate remedy at law. *State ex rel. Ney v. Niehaus*, 33 Ohio St.3d 118, 515 N.E.2d 914 (1987).

SEAN C. GALLAGHER, JUDGE

MARY EILEEN KILBANE, P.J., and
PATRICIA ANN BLACKMON, J., CONCUR