

IN THE SUPREME COURT OF OHIO

CHARLES D. COPELAND

Relator,

vs.

LISA COATES, CITY OF STOW
EMPLOYEE

Respondent.

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CASE NO. 2019-0878

ORIGINAL ACTION IN MANDAMUS

**MOTION OF RESPONDENT LISA COATES, CITY OF STOW EMPLOYEE,
TO DISMISS RELATOR’S PETITIONS FOR WRIT OF MANDAMUS AND PROHIBITION**

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**CITY OF STOW, EMPLOYEE LISA COATES' MOTION TO DISMISS RELATOR'S
PETITIONS FOR WRIT OF MANDAMUS AND WRIT OF PROHIBITION**

Now comes Respondent, Judge Lisa Coates, City of Stow Employee (Judge Coates) who hereby moves this Court to dismiss the Relator's Petitions for Writ of Mandamus and Writ of Prohibition for failure to establish that he is entitled to Mandamus or Prohibition and for not exhausting all administrative remedies. *See* S.Ct.Prac. R. 10.5(A). Judge Coates further moves the Court to charge costs against the Relator. *See* O.R.C.2731.12; S.Ct.Prac. R. 10.1(A). A brief in support is attached.

Respectfully submitted,

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Law Director, City of Stow

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BRIEF IN SUPPORT OF JUDGE LISA COATES' MOTION TO DISMISS

I. Introduction

Relator, Charles Copeland (Relator) is a wanted defendant in a pending Stow Municipal Court traffic case, case number 2019TRD03044. In that case, the Stow Police Department cited Relator with Illegal Plates/Transfer of Registration and Driving with Expired or Unlawful Plates, while he was driving through the City of Stow on March 31, 2019.

The arraignment took place on April 5, 2019. Two pre-trials were held, one on May 6, 2019 which was continued so Relator could obtain counsel. A public defender was appointed and the second pretrial was held on May 21, 2019. The parties were unable to resolve the case and were ordered to appear at the trial on June 4, 2019. Relator failed to appear for his trial date and the trial court issued a bench warrant in his name on June 6, 2019, and suspended his driver's license. The judge in Relator's case is Judge Lisa Coates.

Now Relator is asking this Court to order the trial court to cancel any and all warrants, to contact the BMV, and cancel any and all action to suspend, place holds on Relator's driver's license, and any other harm caused by the trial court by way of Mandamus. *See* Petition, at "relief requested." Relator also requests a writ of prohibition as he incorrectly alleges that the trial court lacked subject matter jurisdiction as well as personal jurisdiction. Relator's petition fails on its face as he does not allege to have exhausted his administrative remedies. Relator's petition should be denied because it is not the proper remedy to challenge either the warrant or the driver's license suspension issued by the trial court for his own failure to appear at the scheduled trial date.

II. Law and Argument

1. Relator has failed to establish that he is entitled to a writ of mandamus

“The Ohio Constitution confers upon the Supreme Court of Ohio and the Ohio courts of appeals concurrent, original jurisdiction over writs of mandamus—i.e., written orders, in the name of a state or other competent legal authority, that command a public officer or agency to perform an official act.” *See* Sections 2 and 3, Article IV, Ohio Constitution; R.C. 2731.01. A relator must meet three requirements in order to be entitled to a writ of mandamus, (1) the relator has a clear legal right to the relief requested, (2) the respondent is under a clear legal duty to perform the requested act, and (3) the relator has no plain and adequate remedy in the ordinary course of law. *State ex rel. Ohio Civ. Serv. Employees Assn., AFSCME, Local 11, AFL-CIO v. State Emp. Relations Bd.*, 2004-Ohio-6363, ¶ 9, 104 Ohio St. 3d 122, 124, 818 N.E.2d 688, 692. Relator failed on all accounts to establish that he is entitled to a writ of mandamus.

a. Relator does not have a clear and legal right to the relief requested

Relator has failed to establish that he has a clear and legal right to the relief requested. The relief he has requested is to “cancil [sic] any and all warrents [sic] issued by this court contact B,M,V, and cancel any and all action to suspend, place holds on my driver licence [sic] and any other harm said judge decided to cause [sic] plaintiff in seculed for more for more heart surgery [sic] I don’t need the extra stress which could kill me [sic] I nor the doctors need your permission to save.” *See* Petition, at “relief requested.” Relator further requests monetary damages in the amount of \$250,000.00. The warrant and the driver’s license suspension were issued due to Relator’s failure to appear at his trial date. The trial court’s issuance of the warrant and driver’s license suspension are valid consequences provided for in §2937.43 of the Ohio Revised Code. The trial court appropriately issued a warrant for Relator’s failure to appear for a trial date that he requested, after being afforded the opportunity to obtain a public defender.

Relator is clearly not entitled to the relief he has requested as he failed to appear at his scheduled trial date. Pursuant to the evidence previously submitted by Relator himself, he had notice of the trial date. *See* page 6 of Relator’s Writ (documenting the date and time of Relator’s trial). According to the Ohio Revised Code, when a defendant fails to appear for a trial date, the court may issue a warrant.

“Should the accused fail to appear as required, after having been released pursuant to § 2937.29 of the Revised Code, the court having jurisdiction at the time of such failure may, in addition to any other action provided by law, issue a warrant for the arrest of such accused.” *See* O.R.C., § 2937.43.

Not only may the court issue a warrant, it may also suspend one’s valid driver’s license for failure to appear at a scheduled court appearance. “If a person who has a current valid Ohio driver's, commercial driver's license, or temporary instruction permit is charged with a violation of any provision in sections 4503.11, 4503.12, 4503.182, 4503.21, 4507.02, 4507.05, 4507.35, 4510.11, 4510.111, 4510.12, 4510.16, 4510.21, 4511.01 to 4511.76, 4511.81, 4511.82, 4511.84, 4513.01 to 4513.65, or 4549.01 to 4549.65 of the Revised Code or with a violation of any substantially equivalent municipal ordinance and if the person either fails to appear in court at the required time and place to answer the charge or pleads guilty to or is found guilty of the violation and fails within the time allowed by the court to pay the fine imposed by the court, the court may declare the forfeiture of the person's license...” *Id.* at § 4510.22. Relator was charged with Illegal Plates/Transfer of Registration and Expired or Unlawful Plates; the equivalent municipal ordinances, in the case at hand, are 335.11(A)(3) and 335.10(D). Mandamus is not appropriate in this case as Relator is not entitled to the relief requested.

b. Judge Coates is under no legal duty to perform the requested act

As this honorable Court knows, Judge Coates was well within her authority to issue a bench warrant for the arrest of Relator for his failure to appear at his scheduled trial date. Based on the Ohio Revised Code, Judge Coates also had the authority to suspend Relator’s driver’s license for failure to appear. As a result, Judge Coates is irrefutably under no legal obligation to lift the warrant or remove the license suspension, as requested by Relator.

c. Relator has failed to establish that he has no plain and adequate remedy in the ordinary course of law

When administrative remedies are available, a relator must allege in a mandamus petition “that he exhausted or attempted to exhaust his administrative remedies.” *See State, ex rel. Foreman v. City Council* (1965), 1 Ohio St. 2d 132. This is because there can be no mandamus relief when administrative

remedies were not exhausted. *See Id.: State, ex rel. Schindel v. Rowe* (1971), 25 Ohio St. 2d 47, 48. “If the complaint does not set forth that there is no plain and adequate remedy at law and state specific facts showing the relator to be a party beneficially interested, the relator has not stated a proper claim for relief in mandamus and the complaint is subject to a motion to dismiss.” *See* § 108:3.Jurisdiction, 10 Ohio Jur. Pl. & Pr. Forms § 108:3 (2018 ed.). A writ will issue only if the relator pleads in the complaint that the relator is a party beneficially interested and that the relator has no plain and adequate remedy at law. *See* § 108:4.Complaint, 10 Ohio Jur. Pl. & Pr. Forms § 108:4 (2018 ed.) Relator has failed to allege in his complaint that he exhausted or attempted to exhaust his administrative remedies- his petition should fail on its face.

Should the court find that Relator did allege to exhaust his administrative remedies in his complaint- he did not actually exhaust his administrative remedies. While Relator may argue that he has no plain and adequate remedy in the ordinary course of law, he does. Relator wants his warrant lifted and his license suspension removed- he must address the Stow Municipal Court to achieve these desired results as that is the court who lawfully issued the same. Relator further demands monetary damages in the amount of \$250,000.00- this remedy, while completely irrational, is a remedy that can be obtained through the ordinary course of the law. Stow Municipal Court issued the warrant and the driver’s license suspension due to Relator’s failure to appear at his trial date. Therefore, Relator is now suffering the lawfully administered consequences of his own actions.

A Writ of Mandamus is so blatantly inappropriate in this case as all of the harm to Relator is a result of his own actions and may only be rectified through the ordinary course of law in the Stow Municipal Court. Relator had available a plain and adequate remedy in the ordinary course of law by way of attending and completing the trial set in his case at Stow Municipal Court. Relator still has a plain and adequate remedy in the ordinary course of law by appearing at the Stow Municipal Court and addressing his warrant and driver’s license suspension. Relator’s approach to resolving his issues is as juvenile as it is inappropriate and his petition should be denied. “Where there is a plain and adequate remedy in the ordinary course of the law, the writ of mandamus will not issue. ‘Ordinary course of the law’ includes

equitable remedies.” *See State ex rel. Williams v. Belpre City School Dist. Bd. of Educ.*, 41 Ohio App. 3d 1, 534 N.E.2d 96, 51 Ed. Law Rep. 1044 (4th Dist. Washington County 1987). As a result, Relator’s petition must be denied.

2. Relator has failed to establish that he is entitled to a writ of prohibition

The writ of prohibition is to be issued only in cases of extreme necessity because of the absence or inadequacy of other remedies. *State ex rel. Henry v. Britt*, 67 Ohio St. 2d 71, 21 Ohio Op. 3d 45, 424 N.E.2d 297 (1981). The facts here, do not equate to an emergency. Relator simply refuses to adhere to the trial court’s order and is now suffering the consequences. Ordinarily, a writ of prohibition will not be granted where an adequate remedy in the ordinary course of law exists. *State ex rel. Hemsley v. Unruh*, 128 Ohio St. 3d 307, 2011-Ohio-226, 943 N.E.2d 1014 (2011); *See* 67 Ohio Jur. 3d Mandamus, Etc. § 170. Relator did not appear for his court ordered trial date on the charges of Illegal Plates/Transfer of Registration, a misdemeanor of the fourth degree and Driving with Expired or Unlawful Plates, a minor misdemeanor. As a result, the trial court lawfully issued a warrant for his arrest and suspended his driver’s license.

The use of the writ of prohibition is not favored in the law and will issue only when there is no other remedy available. *See State ex rel. Johnson v. Harter*, 82 Ohio L. Abs. 43, 163 N.E.2d 414 (Ct. App. 10th Dist. Franklin County 1958).; *See also* 67 Ohio Jur. 3d Mandamus, Etc. § 170. The adequate remedy at law would be for Relator to turn himself in and address his charges with the trial court. Extraordinary remedies such as mandamus and prohibition are available only when usual forms of procedure are incapable of affording relief, which is not the case here. *See* 67 Ohio Jur. 3d Mandamus, Etc. § 170.

Absent a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction can determine its own jurisdiction, and a party challenging the court's jurisdiction has an adequate remedy by appeal, precluding relief by writ of prohibition. *State ex rel. Lee v. Trumbull County Probate Court*, 83 Ohio St. 3d 369, 1998-Ohio-51, 700 N.E.2d 4 (1998). Relator was operating a motor vehicle through the city of Stow on March 31, 2019, when the Stow Police pulled him over and lawfully

issued him a traffic citation. Stow Municipal Court has subject matter jurisdiction over traffic cases in which citations have been issued as a result of violating a Stow ordinance in the city of Stow. Stow Municipal Court has personal jurisdiction over Relator as the incident occurred in the city of Stow, and Relator was personally present when he received the complaint for his infractions. As a result, his petition should be denied.

III. Conclusion

Neither mandamus nor prohibition is appropriate in the case at hand. For the reasons stated above, the Judge Coates, respectfully asks this Court to (1) dismiss Relator's Petitions for Writ of Mandamus and Prohibition and (2) charge costs to Relator as is required by O.R.C. 2731.12 ("If judgment is proceeding for a writ of mandamus is rendered for the defendant, all costs shall be adjudged against the relator." *See* S.Ct. Prac. R. 10.1(A) (stating that R.C. 2731 applies to this Court)).

Respectfully submitted,

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CERTIFICATE OF SERVICE

This shall certify that a copy of the foregoing Motion to Dismiss was served on the following by ordinary U.S. Mail on July 18, 2019:

Charles Copeland
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/s/ Jaime M. Syx
Jaime Syx (0090028)