

**THE STATE EX REL. CITY OF EAST CLEVELAND, APPELLANT, ET AL., v.
DAILEY, APPELLEE, ET AL.**

**[Cite as *State ex rel. E. Cleveland v. Dailey*, 160 Ohio St.3d 171,
2020-Ohio-3079.]**

*Jurisdiction—Court of appeals lacked original jurisdiction over city’s petition for
declaratory judgment—Dismissal of petition affirmed.*

(No. 2019-1636—Submitted April 7, 2020—Decided May 28, 2020.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 108873,
2019-Ohio-4267.

Per Curiam.

{¶ 1} This appeal relates to two criminal cases in the East Cleveland Municipal Court against appellee, Randolph P. Dailey, and Patricia Coleman, both of whom are sergeants in the Cleveland police department. Appellant, the city of East Cleveland, brought criminal charges against Dailey and Coleman based on their conduct during a high-speed police chase that began in Cleveland and ended in East Cleveland.

{¶ 2} A jury found Coleman not guilty, but East Cleveland argues that she was acquitted only because the trial court made erroneous evidentiary rulings. The Double Jeopardy Clause of the Fifth Amendment to the United States Constitution precludes East Cleveland from appealing Coleman’s acquittal. *See United States v. Wilson*, 420 U.S. 332, 346, 95 S.Ct. 1013, 43 L.Ed.2d 232 (1975).

{¶ 3} In an attempt to obtain review of the trial court’s evidentiary rulings before Dailey goes to trial, East Cleveland filed a “petition for declaratory judgment” in the Eighth District Court of Appeals. The Eighth District held that it lacks original jurisdiction over declaratory-judgment actions and dismissed the case sua sponte.

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{¶ 4} East Cleveland appealed to this court as of right. We affirm. It is well settled that “[c]ourts of appeals lack original jurisdiction over claims for declaratory judgment.” *State ex rel. Natl. Elec. Contrs. Assn., Ohio Conference v. Ohio Bur. of Emp. Servs.*, 83 Ohio St.3d 179, 180, 699 N.E.2d 64 (1998); *see also* Ohio Constitution, Article IV, Section 3(B)(1).

{¶ 5} On February 26, 2020, Dailey filed a motion asking us to accept a merit brief he attempted to file on February 20. In view of our decision affirming the court of appeals’ judgment, we deny Dailey’s motion as moot.

Judgment affirmed.

O’CONNOR, C.J., and KENNEDY, FRENCH, FISCHER, DEWINE, DONNELLY, and STEWART, JJ., concur.

Willa M. Hemmons, East Cleveland Director of Law, for appellant.
Hillow & Spellacy, L.L.C., and Henry J. Hillow, for appellee.
