

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

April 27, 2020

[Cite as *04/27/2020 Case Announcements*, 2020-Ohio-2675.]

MISCELLANEOUS DISMISSALS

2020-0547. *State ex rel. Stone v. Forsthoefel.*

In Mandamus and Prohibition. On respondent's motion to dismiss. Motion granted. Cause dismissed. To the extent that existing court orders do not already so provide, respondent shall ensure that appropriate social distancing is maintained throughout the trial, both inside and outside the courtroom, and ensure that no individual entering the courtroom is exhibiting symptoms of COVID-19, including a temperature of 100 degrees or higher. Further, respondent shall excuse any potential juror who is concerned that participation in the trial will jeopardize his or her health or safety.

Kennedy, J., concurs, with an opinion.

Donnelly, J., dissents and would grant a writ of mandamus, would require that respondent reschedule the trial to a date at least two weeks after April 28, 2020, and would deny the request for emergency stay as moot.

KENNEDY, J., concurring.

{¶ 1} I concur in the court's judgment.

{¶ 2} The matter before this court is whether to grant respondent Judge Ronald Forsthoefel's motion to dismiss this case for failure to state a claim upon which relief may be granted. In considering Judge Forsthoefel's motion to dismiss relator Adam Charles Stone's complaint for a writ of prohibition and a writ of mandamus, this court must presume that Stone's factual allegations are true and must also make all reasonable inferences in Stone's favor. *Volbers-Klarich v. Middletown Mgt., Inc.*, 125 Ohio St.3d 494, 2010-Ohio-2057, 929 N.E.2d 434, ¶ 12.

This court may dismiss Stone's complaint only if it appears beyond doubt that Stone could prove no set of facts entitling him to the relief that he has requested. *State ex rel. Brady v. Pianka*, 106 Ohio St.3d 147, 2005-Ohio-4105, 832 N.E.2d 1202, ¶ 6. Because there are no allegations to support granting Stone a writ of mandamus or a writ of prohibition, I agree that Judge Forsthoefel's motion should be granted. I leave it in Judge Forsthoefel's capable hands to determine how to safely operate his court.
