

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

May 11, 2022

[Cite as *05/11/2022 Case Announcements #2, 2022-Ohio-1558.*]

MERIT DECISIONS WITHOUT OPINIONS

2022-0190. State ex rel. Smith v. Tenth Dist. Court of Appeals.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

O'Connor, C.J., and Kennedy, DeWine, Donnelly, Stewart, and Brunner, JJ., concur.

Fischer, J., concurs, with an opinion.

FISCHER, J., concurring.

{¶ 1} I concur in this court's decision to grant the motion to dismiss the complaint in this case. I write separately, however, to stress the fundamental principle that a court is not sui juris and therefore cannot be sued. *See State ex rel. Armatas v. Fifth Dist. Court of Appeals*, 158 Ohio St.3d 1516, 2020-Ohio-2976, 145 N.E.3d 305.

{¶ 2} “ ‘A court is not a judge, nor a judge a court.’ ” *Todd v. United States*, 158 U.S. 278, 284, 15 S.Ct. 889, 39 L.Ed. 982 (1895), quoting *United States v. Clark*, 25 F.Cas. 441, 442 (C.C.Mass.1813). “ ‘A court is defined to be a place in which justice is judicially administered.’ ” *Id.*, quoting *Clark* at 442.

{¶ 3} In his complaint, relator, Thomas Smith, asks us to issue a writ of mandamus compelling respondent, the Tenth District Court of Appeals, to require all three of the judges on the panel in his direct appeal to sign the court's October 19, 2010 decision in that case and to have a judge sign the court's January 25, 2022 journal entry in the case. However, “[a]bsent express statutory authority, a court can neither sue nor be sued in its own right.” *State ex rel.*

Cleveland Mun. Court v. Cleveland City Council, 34 Ohio St.2d 120, 121, 296 N.E.2d 544 (1973).

{¶ 4} Because Smith can identify no express statutory authority permitting an Ohio appellate court to be sued, this court cannot issue a writ of mandamus ordering the Tenth District to act in a certain manner.

{¶ 5} I accordingly concur in this court's judgment granting the Tenth District's motion to dismiss the complaint.
