

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Shannon Nealey,	:	
Relator,	:	No. 25AP-958
v.	:	(REGULAR CALENDAR)
Franklin County Municipal Court et al.,	:	
Respondents.	:	

DECISION

Rendered on August 18, 2026

Shannon Nealey, pro se.

Zach Klein, City Attorney, and *Sheena D. Rosenberg*, for respondents.

IN PROHIBITION
ON RESPONDENT'S MOTION TO DISMISS

BEATTY BLUNT, J.

{¶ 1} Relator, Shannon Nealey, has filed a complaint for a writ of prohibition against respondents, Franklin County Municipal Court, Magistrate Danielle Sparks, the Willis Law Firm, and the Ackermann Group. Relator requests that this court issue a writ of prohibition ordering all proceedings stayed in an eviction action pending in the Franklin County Municipal Court until subject-matter jurisdiction and authority are established. Respondents Franklin County Municipal Court and Magistrate Sparks have filed a motion to dismiss for failure to state a claim upon which relief can be granted pursuant to Civ.R. 12(B)(6).

{¶ 2} Pursuant to Civ.R. 53 and Loc.R. 13(M) of the Tenth District Court of Appeals, this matter was referred to a magistrate. The magistrate considered the action on its merits and issued a decision, including findings of fact and conclusions of law, which is appended

hereto. The magistrate first concluded that because the Franklin County Municipal Court is not *sui juris*, it is not properly named as a respondent and, as a result, must be dismissed from this action. The magistrate further concluded that even when presuming all factual allegations in the petition to be true and making all reasonable inferences in favor of Nealey as the nonmoving party, Nealey has not alleged facts regarding the first element of a prohibition claim—i.e., a respondent is about to exercise or has exercised judicial or quasi-judicial authority—sufficient to withstand a motion to dismiss. Accordingly, the magistrate recommended this court grant the motion to dismiss filed by respondents and dismiss relator’s complaint and action.

{¶ 3} No objections have been filed to the magistrate’s decision. “If no timely objections are filed, the court may adopt a magistrate’s decision, unless it determines that there is an error of law or other defect evident on the face of the magistrate’s decision.” Civ.R. 53(D)(4)(c).

{¶ 4} Upon review, we have found no error in the magistrate’s findings of fact or conclusions of law or other defect evident on the face of the magistrate’s decision. Therefore, we adopt the magistrate’s decision as our own, including the findings of fact and the conclusions of law therein, and conclude that relator has not shown they are entitled to either a writ of prohibition or a writ of mandamus, and this action must be dismissed.

*Writ of prohibition denied;
complaint dismissed.*

BOGGS, P.J., and LELAND, J., concur.

APPENDIX

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Shannon Nealey,	:	
Relator,	:	
v.	:	No. 25AP-958
Franklin County Municipal Court et al.,	:	(REGULAR CALENDAR)
Respondents.	:	

MAGISTRATE'S DECISION

Rendered on May 27, 2026

Shannon Nealey, pro se.

Zach Klein, City Attorney, and Sheena D. Rosenberg, for respondents.

IN PROHIBITION
ON RESPONDENTS' MOTION TO DISMISS

{¶ 5} Relator Shannon Nealey has filed a petition for a writ of prohibition, naming as respondents the Franklin County Municipal Court, Magistrate Danielle Sparks, the Willis Law Firm, and the Ackermann Group. Nealey requests a writ of prohibition ordering all proceedings stayed in an eviction action pending in the municipal court until subject-matter jurisdiction and authority are established. The municipal court and Magistrate Sparks have filed a motion to dismiss. For the following reasons, the magistrate recommends granting the motion to dismiss and dismissing Nealey's petition for a writ of prohibition.

I. Findings of Fact

{¶ 6} 1. Nealey filed her petition for writ of prohibition and request for emergency

stay on December 15, 2025.

{¶ 7} 2. In the petition, Nealey alleged that an eviction action was filed against her in the Franklin County Municipal Court in Franklin M.C. No. 2025 CVG 060750 (hereinafter referred to as the “underlying case”). Nealey allegedly submitted several filings in the underlying case, including the following: a motion to dismiss for lack of subject-matter jurisdiction and failure to state a claim, a mandatory notice of jurisdictional defects, and a specific negative averment. Nealey alleged that none of these filings had been ruled on and that the plaintiff in the underlying case had not produced an affidavit establishing standing, authority or ownership. According to Nealey, the municipal court had scheduled an eviction hearing.

{¶ 8} 3. Nealey asserted in the petition that eviction would cause irreparable harm and permanently deprive her of possessory rights. Nealey asserted that a writ of prohibition is proper where a lower court lacks jurisdiction or is about to act in excess of its authority, and no adequate remedy exists in the ordinary course of law.

{¶ 9} 4. Nealey requested as relief the following: (1) a stay of all proceedings in the underlying action pending resolution of the petition, (2) the issuance of an alternative writ of prohibition ordering respondents to cease further proceedings unless and until subject-matter jurisdiction is lawfully established, and (3) such other and further relief as deemed just and proper.

{¶ 10} 5. On January 20, 2026, the municipal court and Magistrate Sparks filed a motion to dismiss.

{¶ 11} 6. On February 9, 2026, a writ of restitution was issued in the underlying case.¹ On February 26, 2026, the writ of restitution was returned showing the set out was complete.

II. Discussion and Conclusions of Law

{¶ 12} Nealey seeks a writ of prohibition and requests a stay of the proceedings in the underlying case. The Franklin County Municipal Court and Magistrate Sparks have filed a motion to dismiss.

¹ The magistrate takes judicial notice of the docket, writ of restitution, and the return of the writ of restitution in the underlying case. *See State ex rel. Lyons v. Skinner*, 2020-Ohio-3008, ¶ 3, fn. 1 (10th Dist.); *Robinson v. Page*, 2026-Ohio-1468, ¶ 4, fn.1 (10th Dist.).

A. Requirements for a Writ of Prohibition

{¶ 13} “[T]he purpose of a writ of prohibition is to restrain inferior courts and tribunals from exceeding their jurisdiction.” *State ex rel. Tubbs Jones v. Suster*, 1998-Ohio-275, ¶ 5. In order for a court to issue a writ of prohibition, a relator must establish that (1) the respondent is about to exercise or has exercised judicial or quasi-judicial authority, (2) the exercise of that authority is unauthorized by law, and (3) denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of the law. *State ex rel. Durrani v. Ruehlman*, 2016-Ohio-7740, ¶ 13. A writ of prohibition, as an extraordinary remedy, is “customarily granted with caution and restraint, and is issued only in cases of necessity arising from the inadequacy of other remedies.” *State ex rel. Henry v. Britt*, 67 Ohio St.2d 71, 73 (1981).

B. Review of a Motion to Dismiss Under Civ.R. 12(B)(6)

{¶ 14} A motion to dismiss for failure to state a claim under Civ.R.12(B)(6) is procedural and tests the sufficiency of the petition or complaint. *See State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs.*, 1992-Ohio-73, ¶ 9, citing *Assn. for the Defense of the Washington Local School Dist. v. Kiger*, 42 Ohio St.3d 116, 117 (1989). When ruling on a Civ.R.12(B)(6) motion, a court is permitted to consider certain “documents attached to or incorporated into the complaint. *State ex rel. Gordon v. Summit Cty. Court of Common Pleas*, 2025-Ohio-2927, ¶ 8. *See* Civ.R. 10(C) (“A copy of any written instrument attached to a pleading is a part of the pleading for all purposes.”).

{¶ 15} When reviewing the sufficiency of a petition in resolving a Civ.R.12(B)(6) motion, a court must presume all factual allegations in the petition to be true and make all reasonable inferences in favor of the nonmoving party. *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192 (1988). Despite this presumption regarding factual allegations, “unsupported legal conclusions, even when cast as factual assertions, are not presumed true for purposes of a motion to dismiss.” *State ex rel. Martre v. Reed*, 2020-Ohio-4777, ¶ 12. A court may dismiss a prohibition petition or complaint “if, after presuming the truth of all factual allegations of the complaint and making all reasonable inferences in [the relator’s] favor, it appears beyond doubt that [the relator] can prove no set of facts entitling [them] to the requested extraordinary writ of prohibition.” *State ex rel. Hemsley v. Unruh*, 2011-Ohio-226, ¶ 8.

C. Whether Petition for Writ of Prohibition Is Subject to Dismissal

{¶ 16} The municipal court and Magistrate Sparks have moved to dismiss Nealey’s petition for three reasons: (1) the municipal court is not *sui juris*, (2) the underlying case is moot, and (3) the petition fails to substantively state any facts entitling relief. As the potential mootness of the petition prevents a judgment on any other issue, the question of mootness is addressed first.

{¶ 17} An action becomes moot “ ‘ “when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” ’ ” *State ex rel. Gaylor, Inc. v. Goodenow*, 2010-Ohio-1844, ¶ 10, quoting *Los Angeles Cty. v. Davis*, 440 U.S. 625, 631 (1979), quoting *Powell v. McCormack*, 395 U.S. 486, 496 (1969). “[W]hen events occur that make it impossible for a court to grant ‘any effectual relief whatever,’ a case is moot and the court must dismiss the [case].” *Maurent v. Spatny*, 2025-Ohio-5002, ¶ 11, quoting *Miner v. Witt*, 82 Ohio St. 237, 239 (1910).

{¶ 18} Generally, a court may not rely on evidence or allegations outside the complaint when ruling on a motion to dismiss. *State ex rel. Evans v. Mohr*, 2018-Ohio-5089, ¶ 5. However, “[a]n event that causes a case to become moot may be proved by extrinsic evidence outside the record.” *State ex rel. Cincinnati Enquirer v. Dupuis*, 2002-Ohio-7041, ¶ 8. Here, the magistrate has taken judicial notice of the docket in the underlying case, the issuance of a writ of restitution, and the return of the writ. *See State ex rel. Lyons v. Skinner*, 2020-Ohio-3008, ¶ 3, fn. 1 (10th Dist.); *Robinson v. Page*, 2026-Ohio-1468, ¶ 4, fn.1 (10th Dist.). The municipal court and Magistrate Sparks also point to an agreed entry filed on January 5, 2025 that was attached to the motion to dismiss.

{¶ 19} Even taking judicial notice of these filings, they do not support finding this prohibition action to be moot. It is well-established that “a prohibition action is not necessarily rendered moot when the act sought to be prevented occurs before a court can rule on the prohibition claim.” *State ex rel. Brady v. Pianka*, 2005-Ohio-4105, ¶ 8, quoting *State ex rel. Consumers’ Counsel v. Pub. Util. Comm.*, 2004-Ohio-2894, ¶ 11. Where a lower court patently and unambiguously lacks jurisdiction, a writ of prohibition will lie to both prevent the future unauthorized exercise of jurisdiction and to redress the results of prior jurisdictionally unauthorized actions. *See Brady* at ¶ 8; *State ex rel. Roush v. Montgomery*, 2019-Ohio-932, ¶ 1 (finding that issuance of a judgment in adoption case did not moot

prohibition claim). Therefore, regardless of the January 5, 2025 entry or the fact that a writ of restitution was issued and returned showing that set out was complete, this prohibition action is not moot. *See Brady* at ¶ 8 (finding prohibition action was not moot even where lower court exercised jurisdiction over a forcible-entry-and-detainer action by evicting the relator and ordering the sale of the relator's house).

{¶ 20} Second, the municipal court and Magistrate Sparks assert that the municipal court must be dismissed because it is not *sui juris*. “[A] court is not *sui juris* and may not be sued in its own right.” *Page v. Geauga Cty. Probate & Juvenile Court*, 2023-Ohio-2491, ¶ 3. *See State ex rel. Ames v. Portage Cty. Bd. of Commrs.*, 2021-Ohio-2374, ¶ 26 (finding no entitlement to relief in mandamus against court of common pleas because it is not *sui juris*). This court has previously dismissed a prohibition action against the municipal court on this basis. *State ex rel. Lattimore v. Franklin Cty. Mun. Court*, 2025-Ohio-5156, ¶ 3-4 (10th Dist.). Because the municipal court is not *sui juris*, it is not properly named as a respondent and, as a result, must be dismissed from this action.

{¶ 21} Third, the municipal court and Magistrate Sparks assert the petition fails to state a claim upon which relief can be granted. An action for “a writ of prohibition ‘tests and determines “solely and only” the subject matter jurisdiction’ of the lower court.” *Tubbs Jones*, 1998-Ohio-275, ¶ 6, quoting *State ex rel. Eaton Corp. v. Lancaster*, 40 Ohio St.3d 404, 409 (1988), quoting *State ex rel. Staton v. Franklin Cty. Common Pleas Court*, 5 Ohio St.2d 17, 21 (1965). Where the court or tribunal in question has subject-matter jurisdiction, “prohibition is not available to prevent or correct an erroneous decision.” *Eaton* at 409.

{¶ 22} “ ‘Jurisdiction’ means ‘the courts’ statutory or constitutional power to adjudicate the case.’ ” *Pratts v. Hurley*, 2004-Ohio-1980, ¶ 11, quoting *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 89 (1998). This term in its general sense “encompasses jurisdiction over the subject matter and over the person.” *Pratts* at ¶ 11. “Subject-matter jurisdiction is the power of a court to entertain and adjudicate a particular class of cases.” *Bank of Am., N.A. v. Kuchta*, 2014-Ohio-4275, ¶ 19. “A court’s subject-matter jurisdiction is determined without regard to the rights of the individual parties involved in a particular case.” *Id.* However, the term “jurisdiction” is also “used when referring to a court’s exercise of its jurisdiction over a particular case,” to mean a “trial court’s authority to determine a specific case within that class of cases that is within its

subject matter jurisdiction.” (Quotations and citations omitted.) *Pratts* at ¶ 12.

{¶ 23} Nealey never directly claims that the municipal court lacks subject-matter jurisdiction over the class of action presented in the underlying case. Instead, Nealey merely alleges that “until subject-matter jurisdiction and authority are conclusively established on the record,” proceeding in the underlying case, including by scheduling and conducting an eviction hearing, “constitutes an unauthorized exercise of judicial power.” (Compl. at 1.) In this way, Nealey does not assert that the municipal court lacks subject-matter jurisdiction but rather seeks to halt action in the underlying case until a ruling on jurisdiction is made in that matter. *Id.* However, this conclusory assertion is not sufficient to state a claim that a municipal court does not have subject-matter jurisdiction over the type of action at issue in the underlying case—a forcible entry and detainer action.²

{¶ 24} “Unlike courts of common pleas, which are created by the Ohio Constitution and have statewide subject-matter jurisdiction, . . . municipal courts are statutorily created, R.C. 1901.01, and their subject-matter jurisdiction is set by statute.” *Cheap Escape Co. v. Haddox, L.L.C.*, 2008-Ohio-6323, ¶ 7. R.C. 1901.18(A) sets forth the original jurisdiction of a municipal court over a list of specified actions or proceedings within the territory of the court, subject to the monetary jurisdictional limit for municipal courts in R.C. 1901.17. Among the listed actions, the statute grants municipal courts original jurisdiction in “any action of forcible entry and detainer.” R.C. 1901.18(A)(8). Thus, “[m]unicipal courts . . . have subject-matter jurisdiction over forcible entry and detainer actions.” *Olentangy Commons Owner LLC v. Fawley*, 2023-Ohio-4039, ¶ 51 (10th Dist.).

{¶ 25} Leaving aside subject-matter jurisdiction, Nealey does not allege that Magistrate Sparks is about to exercise or has exercised judicial or quasi-judicial authority. Nealey does not assert that Magistrate Sparks is involved with the underlying case in any way at all. Likewise, Nealey has not alleged that respondents the Willis Law Firm and the Ackermann Group are about to exercise or have exercised judicial or quasi-judicial authority. Moreover, Nealey does not seek any relief in prohibition specific to Magistrate Sparks, the Willis Law Firm, or the Ackermann Group. Thus, even when presuming all factual allegations in the petition to be true and making all reasonable inferences in favor

² Forcible entry and detainer actions are sometimes “commonly referred to as an eviction” action. *Starr v. Kaderly*, 1996 Ohio App. LEXIS 3453, at *2 (10th Dist. Aug. 15, 1996).

of Nealey as the nonmoving party, Nealey has not alleged facts regarding the first element of a prohibition claim—i.e., a respondent is about to exercise or has exercised judicial or quasi-judicial authority—sufficient to withstand a motion to dismiss. As a result, Nealey’s claim in prohibition against Magistrate Sparks, the Willis Law Firm, and the Ackermann Group must be dismissed for failure to state a claim upon which relief can be granted.

D. Conclusion

{¶ 26} For the reasons stated above, the magistrate concludes that the municipal court should be dismissed from this action because it is not sui juris, and Nealey has failed to state a claim upon which relief can be granted with regard to Magistrate Sparks, the Willis Law Firm, and the Ackermann Group. Accordingly, it is the decision and recommendation of the magistrate that the motion to dismiss filed by the municipal court and Magistrate Sparks should be granted, and Nealey’s petition for a writ of prohibition should be dismissed.

/S/ MAGISTRATE
JOSEPH E. WENGER IV

NOTICE TO THE PARTIES

Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court’s adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b). A party may file written objections to the magistrate’s decision within fourteen days of the filing of the decision.