

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State ex rel. Robert Lee Owensby, Jr.,	:	
Relator,	:	No. 25AP-932
v.	:	(REGULAR CALENDAR)
Franklin County Municipal Court et al.,	:	
Respondents.	:	

D E C I S I O N

Rendered on August 20, 2026

On brief: *Robert Lee Owensby, Jr.*, pro se.

On brief: *Zach Klein*, City Attorney, *Matthew D. Sturtz*, and *Richard N. Coglianese*, for respondents.

IN MANDAMUS
ON MOTION TO DISMISS

JAMISON, J.

{¶ 1} Relator, Robert Lee Owensby, Jr., seeks a writ of mandamus ordering the following respondents: the Franklin County Municipal Court, Judge Zach Gwin, Judge Cynthia L. Ebner, and Judge Jessica G. D’Varga to provide judicial clarification of all rulings at issue; immediately correct the docket, including entry of all filings and identification of the judge of record for each ruling; and issue reasoned rulings on all pending matters. Relator also requests a stay of enforcement of all warrants pending full judicial compliance. Respondents have filed a motion to dismiss pursuant to Civ.R. 12(B)(1) and (6). The magistrate recommended granting respondent’s motion to dismiss.

{¶ 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 issued the appended decision, including findings of fact and conclusions of law. The magistrate recommends that we deny relator’s request for a writ of mandamus because relator failed to comport to the following:

(1) Civ.R. 3(A) (a civil action is commenced with the filing of a complaint with the court, provided that service is obtained within one year); (2) Loc.R. 13(A) (“an original action, other than habeas corpus, shall be instituted by the filing of a complaint”); and (3) R.C. 2731.04 (“Application for the writ of mandamus must be by petition. . . .”). (Appended Mag.’s Dec. at ¶ 10.)

{¶ 3} Relator’s action includes the following language: “Relator, Robert Lee Owensby Jr., respectfully moves this Honorable Court for extraordinary relief in mandamus.” (Relator’s Dec. 2, 2025 Mot. at 1.) The magistrate found that relator moved for relief and failed to designate that his December 2, 2025 pleading was a complaint or petition as required by Civ.R. 10(A) (“Every pleading shall contain a caption setting forth the name of the court, the title of the action, the case number, and a designation as in Rule 7(A).”). The magistrate found that relator’s December 2, 2025 filing appears in the form of a motion. Relator did not respond to respondents’ motion to dismiss or otherwise amend his filing. Because of the procedural defects, we find that respondents’ motion to dismiss should be granted.

{¶ 4} The magistrate’s decision informed the parties of their right to file objections to his recommendation under Civ.R. 53(D)(3)(b). Relator has filed no objection 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).

{¶ 5} Our review of the magistrate’s decision reveals no error of law or other evidentiary defects. *See, e.g., State ex rel. Alleyne v. Indus. Comm.*, 2004-Ohio-4223 (10th Dist.) (adopting the magistrate’s decision where no objections were filed).

{¶ 6} Finding no error of law or other defect on the face of the magistrate’s decision, we adopt the magistrate’s decision in its entirety, including the findings of fact and conclusions of law, as our own decision. We find that relator has not established that he is entitled to a writ of mandamus. Accordingly, we grant respondents’ motion to dismiss, deny the writ of mandamus, and dismiss the action.

*Motion to dismiss granted;
action dismissed.*

MENTEL and DINGUS, JJ., concur.

APPENDIX

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State ex rel. Robert Lee Owensby, Jr.,	:	
Relator,	:	
v.	:	No. 25AP-932
Franklin County Municipal Court et al.,	:	(REGULAR CALENDAR)
Respondents.	:	

MAGISTRATE'S DECISION

Rendered on June 17, 2026

Robert Lee Owensby, Jr., pro se.

Zach Klein, City Attorney, Matthew D. Sturtz, and Richard N. Coglianesse, for respondents.

IN MANDAMUS
ON MOTION TO DISMISS

{¶ 7} Relator Robert Lee Owensby, Jr. has moved this Court for extraordinary relief in mandamus against the following respondents: the Franklin County Municipal Court, Judge Zach Gwin, Judge Cynthia L. Ebner, and Judge Jessica G. D’Varga. Relator requests a writ of mandamus ordering the municipal court to provide judicial clarification of all rulings at issue; immediately correct the docket, including entry of all filings and identification of the judge of record for each ruling; and issue reasoned rulings on all pending matters. Relator also requests a stay of enforcement of all warrants pending full judicial compliance. Respondents have filed a motion to dismiss pursuant to Civ.R. 12(B)(1) and (6). Because relator has failed to properly commence an action in mandamus, the magistrate recommends granting the motion to dismiss.

I. Findings of Fact

{¶ 8} 1. On December 2, 2025, relator filed an “original action in mandamus with request for stay of warrant.” (Relator’s Dec. 2, 2025 Mot. at 1.)

{¶ 9} 2. On December 23, 2025, respondents filed a motion to dismiss.

II. Discussion and Conclusions of Law

{¶ 10} Original actions for a writ of mandamus proceed in this Court under the Rules of Civil Procedure. Loc.R. 13(A). Under the Rules of Civil Procedure, a civil action is commenced with the filing of a complaint with the court, provided that service is obtained within one year. Civ.R. 3(A). *See* Loc.R. 13(A) (“An original action, other than habeas corpus, shall be instituted by the filing of a complaint.”); *see also* R.C. 2731.04 (“Application for the writ of mandamus must be by petition. . .”). Without the filing of a complaint, a civil action is not properly commenced. *See Balson v. Balson*, 1978 Ohio App. LEXIS 10687, *4 (10th Dist. June 13, 1978) (stating that “the institution of proper proceedings in order to acquire jurisdiction entails the filing of a complaint which invokes the prospective jurisdiction of the court, which prospective jurisdiction may ripen into actual jurisdiction only upon appropriate service of process”). *Compare Helton v. Admr., Bur. of Workers’ Comp.*, 2015-Ohio-3570, ¶ 8 (10th Dist.), quoting *McKinney v. Ohio State Bur. Workers’ Comp.*, 2005-Ohio-2330, ¶ 4 (10th Dist.) (stating that “[u]nlike a typical civil action, ‘[i]n a workers’ compensation action, the filing of the complaint does not commence the action and confer jurisdiction’ ”).

{¶ 11} As pointed out by respondents in their motion to dismiss, relator sought to commence this action with the following statement: “Relator, Robert Lee Owensby Jr., respectfully **moves** this Honorable Court for extraordinary relief in mandamus.” (Emphasis added.) (Relator’s Dec. 2, 2025 Mot. at 1.) Types of pleadings, which include a complaint and an answer, are listed in Civ.R. 7(A). Provisions pertaining to motions, which are defined as “[a]n application to the court for an order” are contained in Civ.R. 7(B). Relator’s December 2, 2025 filing does not contain a designation reflecting that the filing is a complaint. *See* Civ.R. 10(A) (“Every pleading shall contain a caption setting forth the name of the court, the title of the action, the case number, and **a designation as in Rule 7(A).**”). (Emphasis added.)

{¶ 12} By moving for relief in mandamus rather than filing a complaint, relator has not properly commenced an action for a writ of mandamus. As a result, relator’s motion for relief in mandamus must be dismissed. *See State ex rel. Graves v. Ney*, 1999-Ohio-35, ¶ 3 (affirming the dismissal of a motion for a writ of mandamus because “[o]riginal actions for extraordinary relief like a writ of mandamus must be commenced by filing a complaint or petition rather than a motion”); *State ex rel. Bealler v. Ohio Adult Parole Auth.*, 2001-Ohio-231, ¶ 7 (affirming dismissal of an application for writ of mandamus in part because “original actions for extraordinary relief like a writ of mandamus must be commenced by filing a complaint or petition, not by filing a ‘motion’ or an ‘application’ ”); *State ex rel. Simms v. Sutula*, 81 Ohio St.3d 110, 111 (1998). Additionally, because this Court lacks jurisdiction over requests for prohibitory injunctions, this Court must dismiss relator’s request to stay enforcement of warrants for lack of jurisdiction. *See State ex rel. Williams v. Trim*, 2015-Ohio-3372, ¶ 12 (“A court of appeals lacks original jurisdiction to grant prohibitory injunctions.”).

{¶ 13} Accordingly, it is the decision and recommendation of the magistrate that this Court should grant respondents’ motion to dismiss and dismiss relator’s motion for relief in mandamus and request for stay.

/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.