

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY**

STATE OF OHIO ex rel.
KEVIN A. WEIR,

Relator,

- VS -

ASHTABULA COUNTY COURT OF
COMMON PLEAS, JUVENILE DIVISION,

Respondent.

CASE NO. 2026-A-0043

Original Action for Writ of Procedendo

PER CURIAM OPINION AND JUDGMENT ENTRY

Decided: October 19, 2026
Judgment: Petition dismissed

Kevin A. Weir, pro se, PID# A691-188, Belmont Correctional Institution, 68518 Bannock Road, P.O. Box 540, St. Clairsville, OH 43950 (Relator).

April R. Grabman, Ashtabula County Prosecutor, 25 West Jefferson Street, Jefferson, OH 44047 (For Respondent).

PER CURIAM.

{¶1} This matter is before the Court on a petition for writ of procedendo filed by relator, Kevin A. Weir (“Weir”), on June 2, 2026. Weir has filed against respondent, the Ashtabula County Court of Common Pleas, Juvenile Division. Weir is seeking an order requiring Judge Albert S. Campese (“Judge Campese”) to proceed on his motion/request for companionship allegedly filed in the Ashtabula County Court of Common Pleas, Juvenile Division, Case No. 14JI225.

{¶2} This court issued an alternative writ on June 16, 2026.¹ When Judge Camplese did not file an answer or dispositive motion in accordance with this court’s alternative writ, Weir filed a motion to compel on August 17, 2026. However, on September 8, 2026, Judge Camplese filed a motion to dismiss. For the reasons set forth below, Weir’s motion to compel is denied as moot and his petition is dismissed.

{¶3} “A writ of procedendo is a civil judgment in which a court of superior jurisdiction orders a court of inferior jurisdiction to proceed to judgment.” *Kimble v. McKay*, 2012-Ohio-2707, ¶ 5 (11th Dist.), citing *Yee v. Erie Cty. Sheriff’s Dept.*, 51 Ohio St.3d 43, 45 (1990). When a court has refused to enter judgment or has unnecessarily delayed proceeding to judgment, a writ of procedendo is appropriate. *Id.* at ¶ 6, citing *State ex rel. McKinney v. McKay*, 2011-Ohio-3756, ¶ 17 (11th Dist.), *State ex rel. Crandall, Pheils & Wisniewski v. DeCessna*, 1995-Ohio-98. “[T]o be entitled to a writ of procedendo, a relator must establish a clear legal right to require the court to proceed, a clear legal duty on the part of the court to proceed, and the lack of an adequate remedy in the ordinary course of the law.” *Id.* citing *McKinney* at ¶ 17; *State ex rel. Sherrills v. Cuyahoga Cty. Court of Common Pleas*, 1995-Ohio-26, ¶ 4.

{¶4} Weir has failed to caption his petition correctly. An application for a writ of procedendo must be in the name of the state on the relation of the person applying. *State ex rel. Jenkins v. Belmont Cnty. Common Pleas Court*, 2019-Ohio-206, ¶ 4 (7th Dist.), citing *State ex rel. Clay v. Gee*, 2014-Ohio-48, fn.1; *accord Brody v. Lucci*, 2012-Ohio-1132, ¶ 21 (11th Dist.). “[W]e note that a court *may* sua sponte dismiss a petition for an extraordinary writ when the petition is improperly captioned.” (Emphasis added.) *Brody* at

1. In the alternative writ, this court mistakenly identified Judge Camplese as respondent.

¶ 21, citing *Hill v. Kelly*, 2011-Ohio-6341, ¶ 4 (11th Dist.). See also *Shoop v. State*, 2015-Ohio-2068, ¶ 10.

{¶5} However, the failure to bring an action for a writ of procedendo in the name of the state on the relation of the person applying for the writ is not a jurisdictional defect. Thus, we sua sponte correct the caption. See *Salemi v. Cleveland Metroparks*, 2016-Ohio-1192, ¶ 13 (finding miscaptioning a waivable defense and noting that it is “common practice when parties fail to raise the issue simply to correct the error before publication”).

{¶6} Weir’s petition seeks relief against the Ashtabula County Court of Common Pleas, Juvenile Division. Neither the complaint nor the certificate of service identified Judge Camplese by name. 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 also *State ex rel. Shepherd v. Ashtabula Cty. Court of Common Pleas*, 2024-Ohio-2866, ¶ 6 (11th Dist.). As such, it is not properly named as a party in an original action and Weir’s claims as to the court, should be dismissed. *Page* at ¶ 3.

{¶7} Additionally, Weir’s complaint is subject to dismissal for failure to comply with R.C. 2969.25.

{¶8} R.C. 2969.25(A) requires that “[a]t the time that an inmate commences a civil action * * * against a government entity or employee, the inmate shall file with the court an affidavit that contains a description of each civil action or appeal of a civil action that the inmate has filed in the previous five years in any state or federal court.” Weir is an inmate at Belmont Correctional Institution to whom this statute applies. The affidavit must include:

- (1) A brief description of the nature of the civil action or appeal;

(2) The case name, case number, and the court in which the civil action or appeal was brought;

(3) The name of each party to the civil action or appeal;

(4) The outcome of the civil action or appeal, including whether the court dismissed the civil action or appeal as frivolous or malicious under state or federal law or rule of court, whether the court made an award against the inmate or the inmate's counsel of record for frivolous conduct under section 2323.51 of the Revised Code, another statute, or a rule of court, and, if the court so dismissed the action or appeal or made an award of that nature, the date of the final order affirming the dismissal or award.

R.C. 2969.25(A).

{¶9} Weir did not file an affidavit as required by R.C. 2969.25(A). Failure to attach this document to a request for a writ of mandamus or procedendo warrants dismissal, since the requirements of R.C. 2969.25 are mandatory. *State ex rel. Pough v. McKay*, 2015-Ohio-4642, ¶ 9 (11th Dist.), citing *State ex rel. Manns v. Henson*, 2008-Ohio-4478, ¶ 4, *State ex rel. Francis v. Stuard*, 2012-Ohio-3041, ¶ 12 (11th Dist.); see also *State ex rel. Ware v. Walsh*, 2020-Ohio-769, ¶ 4 (“The requirements of R.C. 2969.25 are mandatory and failure to comply with them requires dismissal of an inmate's complaint.”) As Weir has failed to file an affidavit pursuant to R.C. 2969.25(A), Weir’s petition must be dismissed.

{¶10} Based on the foregoing, the petition is dismissed, and Weir’s motion to compel is denied as moot.

MATT LYNCH, P.J., JOHN J. EKLUND, J., ROBERT J. PATTON, J., concur.

JUDGMENT ENTRY

For the reasons stated in the Per Curiam Opinion of this court, the petition for writ of procedendo is dismissed in its entirety. Any other pending motions are overruled as moot.

Costs are taxed against relator.

PRESIDING JUDGE MATT LYNCH,
concur

JUDGE JOHN J. EKLUND,
concur

JUDGE ROBERT J. PATTON,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.