

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State ex rel. Terry Jay Campbell

Court of Appeals No. L-26-00108

Relator

v.

Clerk of Court Lucas County Court
Of Common Pleas

DECISION AND JUDGMENT

Decided: August 18, 2026

Respondent

* * * * *

Terry Jay Campbell, pro se.

Kevin A. Pituch and John A. Borell, for respondent.

* * * * *

OSOWIK, P.J.

{¶ 1} This matter is before the court on respondent Clerk of Court, Lucas County Court of Common Pleas' motion to dismiss relator Terry Campbell's petition for writ of mandamus. In relator's petition, he alleges that respondent has failed to provide him with

a copy of his requested transcript in case No. CR0201603375, and requests this court to compel respondent to produce a complete copy of the trial transcript.

{¶ 2} Respondent argues in its motion, that the petition should be dismissed because (1) relator was provided with the transcript for use in his direct appeal in case No. L-17-1289, and (2) relator has an adequate remedy at law.

{¶ 3} Relator has failed to file a response to the motion to dismiss.

{¶ 4} “Mandamus is a writ, issued in the name of the state to an inferior tribunal, a corporation, board, or person, commanding the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station.” R.C. 2731.01. To be entitled to a writ of mandamus, relator must establish (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of respondent to provide that relief, and (3) the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Waters v. Spaeth*, 2012-Ohio-69, ¶ 6; *State ex rel. Harris v. Rhodes*, 54 Ohio St.2d 41, 42 (1978). The Ohio Supreme Court has recognized that “Civ.R. 12(B)(6) dismissals may be based on ‘merits’ issues such as the availability of an adequate remedy in the ordinary course of law.” *State ex rel. Hummel v. Sadler*, 2002-Ohio-3605, ¶ 20.

{¶ 5} The Supreme Court of Ohio has repeatedly confirmed that an indigent defendant is entitled to one transcript upon appeal or in seeking post-conviction relief. *State ex rel. Murr v. Thierry*, 34 Ohio St. 3d 45, 45-46 (1987), citing *State ex rel. Partee v. McMahon*, 175 Ohio St. 243 (1963). However, that right is subject to certain limits—one being that only one copy of a transcript need be provided to the defendant, *id.*, citing *State ex rel. Vitoratos v. Walsh*, 173 Ohio St. 467 (1962); *see also State v. Crawford*, 2007

Ohio 2263, ¶ 8 (6th Dist.), citing *State ex rel. Call v. Zimmers*, 85 Ohio St. 3d 367, 368 (1999), and another is that an appeal or post-conviction action must be pending at the time the transcript is sought, *id.*, citing *State ex rel. Partee*; *State ex rel. Catlino v. Clerk of Courts*, 9 Ohio St.2d 101 (1967); *State ex rel. Clark v. Marshall*, 63 Ohio St.2d 107, (1980).

{¶ 6} Here, relator’s argument is not that the State never provided him with a copy of his transcript—relator admits that he has already been provided with one transcript for his direct appeal in case No. L-17-1289. (“A complete trial transcript was prepared at state expense for purposes of that appeal [case No. L-17-1289]. ... The transcript was delivered to Relator’s appointed appellate counsel.”). What relator is really arguing is that although the State provided the transcript to his appellate counsel, his counsel failed to turn the transcript over to him, therefore, the State should provide him with a new transcript.

{¶ 7} Accordingly, while relator *had* a clear legal right to a copy of his transcript while his direct appeal was pending, the State fulfilled its duty when it provided relator’s appellate counsel with a complete copy of relator’s transcript. Additionally, the record does not indicate relator has a petition for post-conviction relief pending. Therefore, relator has no clear legal right to the relief requested, nor does respondent have a clear duty to provide such relief.

{¶ 8} For these reasons, we grant respondent’s motion, and we dismiss relator’s petition in its entirety. Relator is responsible for the costs of this action. The clerk is

directed to serve upon all parties, within three days, a copy of this decision in a manner prescribed by Civ.R. 5(B).

{¶ 9} It is so ordered.

Thomas J. Osowik, P.J.

JUDGE

Christine E. Mayle, J.

JUDGE

Gene A. Zmuda, J.

CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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