

**IN THE COURT OF APPEALS OF OHIO**

SEVENTH APPELLATE DISTRICT  
MAHONING COUNTY

STATE EX REL. RICHARD K. KATSIKIANIS,

Relator,

v.

THE HONORABLE THERESA DELLICK ET AL.,

Respondents.

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**OPINION AND JUDGMENT ENTRY**  
**Case No. 26 MA 0006**

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Writ of Procedendo

**BEFORE:**

Katelyn Dickey, Cheryl L. Waite, Carol Ann Robb, Judges.

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**JUDGMENT:**

Writ Denied.

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Richard K. Katsigianis, Relator and

*Atty. Lynn Maro*, Mahoning County Prosecutor, and *Atty. Daniel P. Dascenzo*, Assistant  
Prosecuting Attorney, for Respondents.

Dated: March 9, 2026

**PER CURIAM.**

{¶1} Relator Richard K. Katsigianis filed a pro se petition for a writ of procedendo seeking to compel Respondents, Judge Theresa Dellick and Magistrate Gina M. DeGenova of the Mahoning County Court of Common Pleas, Juvenile Division, to journalize a final appealable order in the underlying juvenile case, No. 2018 JH 01115 JUV. Respondents, through counsel, filed an objection and motion to dismiss, and Relator filed a response in opposition.

{¶2} The underlying juvenile case involves a contested motion for reallocation of parental rights that remains pending. A guardian ad litem has been appointed, an investigation is underway, and the matter has been set for trial. The juvenile court cannot issue a final order on the reallocation motion until it has conducted the required evidentiary hearing and made the factual findings mandated by R.C. 3109.04. The record reflects active case management, not a refusal to proceed. To the extent delays have occurred, they are attributable in significant part to Relator's repeated failures to appear at properly noticed hearings and his extensive collateral filings across multiple courts. Because Relator has not established a clear legal right to relief, a clear legal duty on the part of Respondents to act, or the absence of an adequate remedy in the ordinary course of law, the petition fails to state a claim upon which a writ may issue. Respondents' motion to dismiss is therefore granted and the petition is dismissed.

**FACTS AND PROCEDURAL HISTORY**

{¶3} The underlying juvenile case involves a custody dispute between Relator and Melissa Burdick, the parents of one minor child. The case was opened in the Mahoning County Court of Common Pleas, Juvenile Division, in 2018 as a child support matter. In July 2023, a custody dispute pending in Franklin County was transferred to Mahoning County after Burdick filed a motion for a change in custody, requesting shared parenting. A hearing on Burdick's motion was scheduled for February 14, 2024. Relator failed to appear. The magistrate issued a decision on February 21, 2024, denying the motion for shared parenting but granting Burdick visitation under the juvenile court's local parenting time schedule, pending a full evidentiary hearing.

{¶4} Relator filed objections to the magistrate’s decision. The trial court overruled them. Relator appealed, and this Court reversed and remanded, finding the trial court erred by holding an objection hearing before allowing Relator the full time under the Juvenile Rules to file a transcript. *Katsigianis v. Burdick*, 2024-Ohio-5002, ¶ 24 (7th Dist.). We rejected Relator’s jurisdictional challenge, however, confirming the juvenile court has exclusive original jurisdiction over custody matters under R.C. 2151.23(A)(2). *Id.* at ¶ 36-37.

{¶5} On remand, Relator again failed to appear, this time at the rescheduled objection hearing on December 11, 2024. The trial court denied his objections on December 31, 2024, affirming the magistrate’s February 21, 2024 decision. On May 19, 2025, Burdick filed a motion for reallocation of parental rights and responsibilities.

{¶6} On December 17, 2025, the magistrate conducted a pretrial on Burdick’s pending reallocation motion. Relator had filed a motion to continue the day before, which the magistrate denied. Relator failed to appear. During the pretrial, Burdick informed the magistrate that Relator had refused to comply with the existing visitation order and that she had not seen the minor child since April 2024. Five days later, on December 22, 2025, the magistrate issued an order granting Burdick interim visitation, appointing a guardian ad litem for the minor child, and scheduling a further pretrial for February 5, 2026.

{¶7} Relator has pursued multiple avenues of appellate and extraordinary-writ relief. On October 21, 2025, he filed a complaint in the Supreme Court of Ohio for writs of prohibition, mandamus, and procedendo arising from the same underlying juvenile case. The Supreme Court dismissed the complaint on December 16, 2025. *State ex rel. Katsigianis v. Mahoning Cty. Juvenile Court Clerk*, S.Ct. Case No. 2025-1391 (Entry, Dec. 16, 2025). On December 23, 2025, Relator filed a notice of appeal in this Court, purporting to appeal the magistrate’s December 2025 orders. This Court dismissed that appeal (26 MA 0002) on January 9, 2026, for lack of a final appealable order.

{¶8} On January 16, 2026, Relator initiated this original action, filing an emergency petition for a writ of procedendo and an accompanying emergency motion for stay of all enforcement. Relator seeks to compel Respondents to issue and journalize a final appealable order in the underlying juvenile case. On January 21, 2026, Relator filed

a separate emergency motion for stay, which this Court denied on January 29, 2026, concluding that, absent a pending appeal of a final appealable order, this Court lacks authority to stay trial court proceedings notwithstanding the pendency of a procedendo action. (Jan. 29, 2026 J.E., citing *In re J.D.*, 2018-Ohio-2789, ¶ 5 (7th Dist.))

{¶9} On January 30, 2026, Respondents filed their objection and motion to dismiss the petition. On February 12, 2026, Relator filed a second emergency motion for stay of the February 5, 2026 magistrate’s order. He thereafter filed notices of enforcement on February 13 and February 24, 2026, and a request for expedited consideration of the pending stay motion on February 26, 2026. On February 21, 2026, Relator filed a response in opposition to Respondents’ motion to dismiss, arguing that the juvenile court’s continued exercise of interim authority without a final appealable order warrants procedendo, and that his nonappearances were not voluntary but were instead compelled by unresolved jurisdictional objections.

### **LAW AND ANALYSIS**

{¶10} A motion to dismiss under Civ.R. 12(B)(6) requires the court, presuming the truth of all material factual allegations and all reasonable inferences in Relator’s favor, to determine whether it appears beyond doubt that Relator can prove no set of facts warranting relief. *State ex rel. Hummel v. Sadler*, 2002-Ohio-3605, ¶ 20.

{¶11} A writ of procedendo will issue only when a court has refused to enter judgment or has unnecessarily delayed proceeding to judgment. *State ex rel. S.Y.C. v. Floyd*, 2024-Ohio-1387, ¶ 14, citing *State ex rel. Culgan v. Collier*, 2013-Ohio-1762, ¶ 7. To state a claim for procedendo, a relator must establish: (1) a clear legal right to require the respondent to proceed; (2) a corresponding clear legal duty on the part of the respondent to proceed; and (3) the absence of an adequate remedy in the ordinary course of law. *Floyd* at ¶ 14. “The writ of procedendo is merely an order from a court of superior jurisdiction to one of inferior jurisdiction to proceed to judgment. It does not attempt to control what that judgment should be.” *State ex rel. Sherrills v. Cuyahoga Cty. Court of Common Pleas*, 72 Ohio St.3d 461, 462 (1995), quoting *State ex rel. Hansen v. Reed*, 63 Ohio St.3d 597, 600 (1992). A writ of procedendo does not lie to accelerate a case to final judgment where the matter has not yet been tried or otherwise submitted for decision.

{¶12} Even presuming the truth of all factual allegations in Relator’s petition, he has failed to state a claim for which a writ of procedendo may issue. His petition fails on all three elements.

{¶13} Relator contends that the juvenile court has refused to journalize a final appealable order, leaving him unable to obtain appellate review. In his response, he refines the argument, asserting that the juvenile court is exercising interim authority and enforcing orders while withholding the adjudication necessary for appellate review. The record reflects otherwise. The proceedings have not concluded: a motion for reallocation of parental rights remains pending; a guardian ad litem has been appointed and is conducting an investigation; and the juvenile court has scheduled further proceedings, including trial on April 24, 2026. The juvenile court cannot issue a final order on the reallocation motion until it has conducted the necessary evidentiary hearing, created an evidentiary record, and made the factual findings required by R.C. 3109.04. The absence of a final order in these circumstances reflects the ordinary operation of the judicial process, not a refusal to act.

{¶14} Relator’s characterization of the juvenile court’s interim orders as enforcement without adjudication does not change this analysis. Trial courts routinely exercise interim authority, including entering temporary visitation and companionship orders, while proceedings remain pending. See R.C. 3109.043 (authorizing temporary orders regarding the allocation of parental rights and responsibilities while the action is pending). The entry of interim orders during the pendency of a motion for reallocation of parental rights is a normal incident of the juvenile court’s case-management authority, not a substitute for a final determination.

{¶15} Nor can Relator demonstrate that Respondents have a clear legal duty to issue a final order at this juncture. The record reflects active case management, not delay or refusal. The magistrate conducted a pretrial on December 17, 2025, issued interim orders on December 22, 2025, appointed a guardian ad litem, scheduled a follow-up pretrial for February 5, 2026, and set the matter for trial on April 24, 2026. Trial courts have inherent power to manage their own dockets. *State ex rel. Charvat v. Frye*, 2007-Ohio-2882, ¶ 23. The writ of procedendo will not issue to control or interfere with the lower

tribunal’s administration of ordinary procedures. *State ex rel. Mignella v. Indus. Comm.*, 2019-Ohio-463, ¶ 7.

{¶16} Moreover, to the extent any delay has occurred, it is attributable in significant part to Relator’s own conduct. The record reflects that Relator failed to appear at three properly noticed hearings: February 14, 2024, December 11, 2024, and December 17, 2025. Each nonappearance required the court to adjust its schedule or proceed without Relator’s participation, drawing subsequent objections and appellate filings that further prolonged the proceedings.

{¶17} In his response, Relator contends that his nonappearances were not voluntary but were compelled by unresolved jurisdictional objections and what he characterizes as obstruction of his appellate access. He also points to the juvenile court clerk’s rejection of his motion to set aside the February 5, 2026 magistrate’s order as evidence of continuing impairment of his ability to obtain rulings. Neither contention demonstrates that Respondents have refused to proceed or unduly delayed ruling. This Court has already rejected Relator’s jurisdictional challenge, confirming that the juvenile court has exclusive original jurisdiction over custody matters under R.C. 2151.23(A)(2). *Katsigianis*, 2024-Ohio-5002, at ¶ 36-37. A party may not refuse to participate in proceedings over which jurisdiction has been confirmed and then claim that the resulting lack of progress constitutes undue delay warranting a writ. As for the clerk’s return of Relator’s motion to set aside, the juvenile court clerk is not a Respondent in this action and acts in a ministerial capacity when collecting filing fees. The record reflects that Relator’s filing was returned because he did not pay the required filing fee and no current affidavit of indigency was on file with the juvenile court. See R.C. 2323.311(B)(1), (4). A fee dispute with the clerk does not establish that the juvenile court has refused to adjudicate or unduly delayed ruling on the matters before it.

{¶18} A litigant who contributes to delays in the trial court cannot then invoke those delays as grounds for a writ of procedendo. See *State ex rel. Cromwell v. Dellick*, 2017-Ohio-8032, ¶ 9 (7th Dist.) (dismissing procedendo petition where, among other things, relators’ own original actions contributed to the trial court’s scheduling difficulties). Here, the juvenile court has not unduly delayed ruling; the proceedings have been complicated by Relator’s nonappearances and extensive collateral filings, including a

complaint for extraordinary writs in the Supreme Court of Ohio, an appeal to this Court (26 MA 0002), this original action, and multiple emergency motions for stay.

{¶19} Finally, Relator argues that he lacks an adequate remedy in the ordinary course of law because, without a final order, he cannot access appellate review. The absence of a final order at this stage reflects the posture of ongoing proceedings, not the absence of a remedy. Once the juvenile court resolves the pending reallocation motion and issues a final order, Relator will have the right to appeal under R.C. 2505.02. Until then, Relator's recourse is to participate in the proceedings before the juvenile court. *Procedendo* is not a substitute for appeal or a vehicle to bypass ordinary appellate review. *Hertlein v. Busic*, 2025-Ohio-4836, ¶ 33 (7th Dist.).

### **CONCLUSION**

{¶20} Applying the Civ.R. 12(B)(6) standard and presuming the truth of all factual allegations in Relator's petition, we find that he has not established that Respondents refused to proceed, unduly delayed ruling, or otherwise failed to perform a clear legal duty. The underlying juvenile case involves a pending motion for reallocation of parental rights that requires an evidentiary hearing before a final order can issue. The record reflects active case management, not delay or refusal. To the extent delays have occurred, they are attributable in significant part to Relator's repeated failures to appear and his extensive collateral filings. The arguments raised in Relator's response in opposition do not alter these conclusions.

{¶21} Accordingly, Respondents' motion to dismiss is granted and this original action in *procedendo* is hereby dismissed. Writ denied. Relator's pending emergency motion for stay filed February 12, 2026 is denied as moot. Any remaining motions and filings not specifically addressed herein are overruled as moot. Pursuant to Civ.R. 58, the Clerk of the Mahoning County Court of Appeals shall immediately serve upon all parties (including unrepresented or self-represented parties) notice of this judgment and its date of entry upon the journal. Costs assessed to Relator.

**JUDGE KATELYN DICKEY**

**JUDGE CHERYL L. WAITE**

**JUDGE CAROL ANN ROBB**