

IMPORTANT NOTICE
NOT TO BE PUBLISHED OPINION

THIS OPINION IS DESIGNATED "NOT TO BE PUBLISHED." PURSUANT TO THE RULES OF CIVIL PROCEDURE PROMULGATED BY THE SUPREME COURT, CR 76.28 (4) (c), THIS OPINION IS NOT TO BE PUBLISHED AND SHALL NOT BE CITED OR USED AS AUTHORITY IN ANY OTHER CASE IN ANY COURT OF THIS STATE.

RENDERED: AUGUST 25, 2005
NOT TO BE PUBLISHED

Supreme Court of Kentucky **FINAL**

2005-SC-0161-MR

DATE 9-15-05 CELIA G. GARDNER, D.C.

WILLIAM B. WALKER

APPELLANT

V. APPEAL FROM COURT OF APPEALS
2004-CA-002468
WARREN CIRCUIT COURT NOS. 97-CR-0242 & 97-CR-268

JUDICIAL CONDUCT COMMISSION

APPELLEES

AND

COMMONWEALTH OF KENTUCKY

REAL PARTY IN INTEREST

MEMORANDUM OPINION OF THE COURT

AFFIRMING

This appeal is from an original action for a writ of mandamus filed in the Court of Appeals. The Court of Appeals granted the motion of the Judicial Conduct Commission to dismiss the action. This appeal follows.

Walker, pro se, was convicted in December 1998, for charges of unlawful transaction with a minor in the Warren Circuit Court, ultimately receiving a 180-year sentence. He states that the trial judge entered an order correcting the judgment and order of commitment February 1999. In April 2001, he claims to have filed a complaint against the trial judge with the Judicial Conduct Commission alleging violations of the Code of Judicial Conduct. His brief alleges that later in April, he received a letter from the executive secretary of the commission acknowledging receipt of the complaint.

However, he claims that he never received communication from the commission regarding resolution of the complaint. In December 2004, he filed an original action in the Court of Appeals petitioning for a writ of mandamus.

Walker raises the following three issues: whether this Court has the ability to issue a writ of mandamus to the Judicial Conduct Commission; whether a four-year delay by the Judicial Conduct Commission to render a decision on his complaint filed against the original trial judge in his case denied him due process of law and equal protection of the law; and, whether the filing and existence of the complaint is evidence sufficient to support a finding of violation of the Code of Judicial Conduct. We find no merit in his arguments.

The question of whether this Court may issue a writ of mandamus to the Judicial Conduct Commission is not properly before this Court. The underlying writ was filed in the Court of Appeals. *See generally, Russell County, Kentucky Hosp. Dist. Health Facilities Corp. v. Ephraim McDowell Health, Inc.*, 152 S.W.3d 230 (Ky. 2004). This action is an appeal from a decision in the Court of Appeals regarding that writ. CR 76.34(7). Thus, this Court's review is limited as to whether the Court of Appeals erred in disposing of the writ below. The Court of Appeals properly determined that it was unable to issue a writ to an authority handling a matter over which it does not have appellate jurisdiction by matter of right. SCR 1.030(3); CR 76.38(1). Accordingly, we find no error in the decision.

The decision of the Court of Appeals is affirmed.

All concur.

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