

# **IMPORTANT NOTICE** **NOT TO BE PUBLISHED OPINION**

**THIS OPINION IS DESIGNATED “NOT TO BE PUBLISHED.” PURSUANT TO THE RULES OF CIVIL PROCEDURE PROMULGATED BY THE SUPREME COURT, CR 76.28(4)(C), THIS OPINION IS NOT TO BE PUBLISHED AND SHALL NOT BE CITED OR USED AS BINDING PRECEDENT IN ANY OTHER CASE IN ANY COURT OF THIS STATE; HOWEVER, UNPUBLISHED KENTUCKY APPELLATE DECISIONS, RENDERED AFTER JANUARY 1, 2003, MAY BE CITED FOR CONSIDERATION BY THE COURT IF THERE IS NO PUBLISHED OPINION THAT WOULD ADEQUATELY ADDRESS THE ISSUE BEFORE THE COURT. OPINIONS CITED FOR CONSIDERATION BY THE COURT SHALL BE SET OUT AS AN UNPUBLISHED DECISION IN THE FILED DOCUMENT AND A COPY OF THE ENTIRE DECISION SHALL BE TENDERED ALONG WITH THE DOCUMENT TO THE COURT AND ALL PARTIES TO THE ACTION.**

RENDERED: OCTOBER 29, 2009

NOT TO BE PUBLISHED

Supreme Court of Kentucky

2009-SC-000138-MR

DATE 3/18/10 Kelly Klaber D.C.  
APPELLANT

JOHN A. HUMPHRESS, JR.

V.

ON APPEAL FROM COURT OF APPEALS  
CASE NO. 2008-CA-001639-OA  
TAYLOR CIRCUIT COURT NO. 97-CI-00384

HON. DOUGHLAS M. GEORGE,  
JUDGE, TAYLOR CIRCUIT COURT, ET AL.

APPELLEES

**MEMORANDUM OPINION OF THE COURT**

**AFFIRMING**

John A. Humphress, Jr. appeals as a matter of right from the Court of Appeals disposition of this original action. Agreeing with the Court of Appeals that Humphress has failed to satisfy the standard for the requested extraordinary relief in the nature of prohibition and mandamus, we affirm.

Although the underlying Humphress marital dissolution action began in 1997 in Taylor Circuit Court and ended with this Court's denial of discretionary review in 2004, Humphress subsequently has filed multiple post-dissolution proceedings. The present appeal arises out of post-dissolution orders entered in some of those proceedings.

In particular, Humphress submits that the Court of Appeals committed reversible error in failing to grant both a writ of prohibition to prevent a contempt hearing and a writ of mandamus requiring the Taylor Circuit Court to hold hearings and to respond specifically to all motions filed by Humphress. Citing generally Newell Enterprises, Inc. v. Bowling, 158 S.W.3d 750 (Ky.

2005), the unanimous appellate panel opined that Humphress has an adequate remedy by appeal, if necessary, and further failed to satisfy the standard for entitlement to the extraordinary writ remedy requested. We agree.

Although Humphress submits that his access to the courts has been “chilled” by the threat of the possibility of contempt for filing frivolous motions, he acknowledges the appealability of any such sanction. Neither is Humphress entitled to the desired hearings on all of his many post-judgment motions, on all of which upon our review of this record the circuit court has acted well within its jurisdiction in attempting to achieve final resolution. In the order entered on August 25, 2008, for example, the circuit court despite warnings regarding future frivolous motions in orders entered in April of 2008 (denying CR 52.01, 52.02, 59.05, 59.06 and 59.07 motions by Humphress) and June of 2008 (denying motions by Humphress including one to appoint “a fence watcher”) was faced with motions for more definitive reasoning regarding denial of a supersedeas bond despite improper surety and, further, criticizing the court for not adequately advising Humphress “during every stage of the case.”

We affirm the denial of the petition for writ.

Minton, C.J.; Cunningham, Noble, Schroder, Scott, and Venters, JJ., sitting. All concur. Abramson, J., not sitting.

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