

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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MATTHEW GORDON RHODES,  
Plaintiff-Appellant,

UNPUBLISHED  
September 9, 2014

v

CITY OF SOUTHFIELD,  
Defendant-Appellee.

No. 314088  
Oakland Circuit Court  
LC No. 2012-130767-AS

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Before: RIORDAN, P.J., and DONOFRIO and BOONSTRA, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court order dismissing his complaint for writ of superintending control. We affirm.

**I. FACTUAL BACKGROUND**

On August 6, 2012, the police performed a traffic stop in Southfield, Michigan. Plaintiff, the driver, was cited for use of private property to avoid a traffic control device. He appeared in the 46th District Court for a hearing, and was found responsible for violating a traffic ordinance. Although plaintiff was fined, he did not pay, so his license was suspended.

On November 17, 2012, plaintiff was driving in Highland Park when the police pulled him over. After discovering plaintiff was driving while his license was suspended, they seized his vehicle. Plaintiff responded by filing a complaint for writ of superintending control, alleging that the 46th District Court violated his due process rights when they failed to serve him or properly file a signed order. After a hearing on the matter, the trial court dismissed the complaint. Plaintiff now appeals.

**II. SUPERINTENDING CONTROL**

**A. STANDARD OF REVIEW**

“The grant or denial of a petition for superintending control is within the sound discretion of the court; absent an abuse of discretion, the Court of Appeals will not disturb the denial of such a request.” *Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 259 Mich App 315, 346; 675 NW2d 271 (2003). “An abuse of discretion occurs when the trial court's decision is outside the range of reasonable and principled outcomes.” *Brown v Home-Owners Ins Co*, 298

Mich App 678, 690; 828 NW2d 400 (2012) (quotation marks and citation omitted).

## B. ANALYSIS

“The writ of superintending control supersedes the writs of certiorari, mandamus, and prohibition, and provides one simplified procedure for reviewing or supervising a lower court or tribunal’s actions.” *Shepherd Montessori Ctr Milan*, 259 Mich App at 346. Rather than an appeal, the filing of a complaint for superintending control is an original civil action designed to order a lower court to perform a legal duty. *Id.* at 346-347. “The standard for issuing a writ of superintending control is to determine whether the lower court failed to perform a clear legal duty.” *Frederick v Presque Isle Co Circuit Judge*, 439 Mich 1, 15; 476 NW2d 142 (1991). Furthermore, “[i]f another adequate remedy is available to the party seeking the order, a complaint for superintending control may not be filed.” MCR 3.302(B).

In the instant case, plaintiff contends that the 46th District Court never filed or served him with a valid judgment, and, thus, the trial court erred in dismissing his complaint. Plaintiff’s argument is flawed for several reasons. First, there is no indication that the 46th District Court failed to file the judgment properly. A judgment or order must be in writing, signed by the court, dated when signed, and the original judgment must be placed in the file. MCR 2.602(A)-(C). Here, the 46th District Court file contains a signed judgment dated September 5, 2012. Thus, plaintiff’s claim that the judgment was not filed properly is meritless. *Frederick*, 439 Mich at 15.<sup>1</sup>

While plaintiff also contends that he was not properly served with the judgment, and finds fault with the 46th District Court, he has failed to support his argument sufficiently. *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998) (it is not this Court’s duty to discover and rationalize a party’s claim, then find support for it). Pursuant to MCR 2.602(D)(1), the obligation to serve the judgment is on “the party securing the signing of the judgment or order” as that party must “serve a copy, within 7 days after it has been signed, on all other parties, and file proof of service with the court clerk.” Plaintiff failed to address this court rule or to demonstrate that the 46th District Court did not perform “a clear legal duty.” *Frederick*, 439 Mich at 15. Furthermore—as the trial court noted—there was an adequate remedy other than a superintending control order, as plaintiff was free to inspect the file and discover the properly filed judgment. MCR 3.302(B).<sup>2</sup>

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<sup>1</sup> Plaintiff’s confusion apparently stems from the fact that he received a September 6th notice that was labeled “Judgment Civil Infraction” and was signed by the “clerk/deputy court clerk/magistrate.” Yet, plaintiff fails to address the signed September 5th order in the file, which complied with MCR 2.602(A)-(C).

<sup>2</sup> To the extent that the trial court reached the correct result for different reasons, “[w]hen this Court concludes that a trial court has reached the correct result, this Court will affirm even if it does so under alternative reasoning.” *Messenger v Ingham Co Prosecutor*, 232 Mich App 633, 643; 591 NW2d 393 (1998).

We conclude that the trial court did not abuse its discretion in dismissing plaintiff's complaint. *Frederick*, 439 Mich at 15.<sup>3</sup>

### III. CONCLUSION

Because plaintiff did not demonstrate that the 46th District Court failed to perform a clear legal duty, we find no abuse of discretion in the trial court's ruling. We affirm.

/s/ Michael J. Riordan

/s/ Pat M. Donofrio

/s/ Mark T. Boonstra

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<sup>3</sup> Nor do we find that plaintiff sufficiently supported his limited reference to a due process violation. See *Wilson*, 457 Mich at 243 (a party may not announce a position and leave it to this Court to discover and rationalize his claims, then search for supporting authority). We also note that plaintiff admitted to receiving the September 6th notice that informed him of the fine assessed against him, that the failure to pay could result in further actions against his driving privileges, and that he could appeal.