

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY, OHIO**

STATE OF OHIO ex rel. CAROL CATALANO,	:	OPINION
	:	
Relator,	:	CASE NO. 2013-G-3174
	:	
- vs -	:	
	:	
JUDGE TIMOTHY GRENDALL,	:	
	:	
Respondent.	:	
	:	

Original Action for Writs of Procedendo and Mandamus.

Judgment: Complaint for writs of mandamus and procedendo dismissed as moot.

Carol A. Catalano, pro se, 30 Commons Court, Chagrin Falls, OH 44022 (Relator).

Todd E. Petersen, Petersen & Petersen, 428 South Street, Chardon, OH 44024 (For Respondent).

CYNTHIA WESTCOTT RICE, J.

{¶1} This original action is before the court on a complaint for writs of mandamus and procedendo filed by relator, Carol Catalano, a motion to dismiss filed by respondent, The Hon. Timothy J. Grendell, relator’s response to that motion, as well as respondent’s “suggestion of mootness and corresponding motion to dismiss.” For the following reasons, the petitions are dismissed as moot.

{¶2} On July 15, 2013, Geauga County Job and Family Services (“GCJFS”) commenced an action for neglect and dependency before respondent, involving the minor child, R.S. R.S.’ parents, Carly and John Snavely, evidently suffer from heroin addiction. Carly, a former Geauga County assistant prosecutor, was arrested on June 26, 2013, for heroin possession. Relator is Carly’s mother, and is a practicing social worker. Respondent is the probate and juvenile judge for Geauga County, Ohio.

{¶3} A hearing was held before respondent on July 26, 2013. Relator and her husband arrived, and were informed by the clerk they needed to file a motion to intervene to attend the hearing. Relator hand wrote and filed a motion.

{¶4} Prior to the hearing, respondent met in chambers with the Geauga County prosecutor; Carly Snavely; the attorney for Carly’s husband, John; and the attorney for the paternal grandparents, Mr. and Mrs. Paul Snavely, who had moved to intervene. Relator was not included. Thereafter, the hearing went forward, at which relator and her husband were initially present. At the hearing, respondent informed relator she needed to file a more formal motion to intervene.

{¶5} The Snavelys’ motion to intervene was granted, and relator and her husband were asked to leave the courtroom. It appears that R.S. was then, and remained in, until December 2014, the Snavelys’ temporary custody.

{¶6} Several days after the hearing, relator filed another motion to intervene and one for visitation. The Snavelys filed a brief in opposition, and relator responded. It appears relator filed other motions as well.

{¶7} On August 9, 2013, respondent filed a judgment entry stating:

{¶8} “This matter came on for the Courts consideration on Carol Catalano’s Motion to Intervene and subsequent motions regarding this case. The Court finds that Carol Catalano has no standing in regards to this matter and has filed said motions without standing.

{¶9} “Therefore, Carol Catalano’s Motion to Intervene and subsequent motions are denied.

{¶10} “You are hereby notified that on this date a Judgment Entry was filed that may be an ‘appealable’ order.”

{¶11} On August 20, 2013, relator filed a “Motion to ask the Court to Clarify and Clearly State Judgment Entry under Rule 60B.” In that motion, she moved respondent to set forth exactly what motions he denied in his August 9, 2013 judgment entry, so she would know what to appeal.

{¶12} Evidently, R.S.’ father was living at his parents’ home with his daughter. On December 1, 2013, relator learned his parents had asked him to leave due to a relapse into drug use. On December 11, 2013, relator filed another motion to intervene and for visitation, based on this alleged change in circumstances regarding R.S. She subsequently received a letter, dated December 16, 2013, from the chief deputy clerk for the juvenile division of the Geauga County Court of Common Pleas, stating:

{¶13} “The enclosed pleading is being returned to you for the following reason:

{¶14} “You are not a party to this case. Per Judge’s instructions, the Court staff is not permitted to accept any filings from you on this case. Any monies you have placed on deposit for the enclosed motion will be refunded to you in accordance with Court procedure.”

{¶15} Relator's motion to intervene and for visitation were enclosed, with the clerk's file stamp crossed out.

{¶16} On December 26, 2013, relator filed the instant complaint in mandamus and procedendo. The basis for her mandamus claim is that she was not allowed to file her second motion to intervene and for visitation. The basis for her procedendo claim is respondent's failure to rule on her motion to clarify, filed August 20, 2013.

{¶17} On January 21, 2014, respondent moved for an extension of time to file his answer or otherwise plead. On February 6, 2014, relator filed a similar motion regarding a response. On February 26, 2014, respondent moved to dismiss the complaint, pursuant to Civ.R. 12(B)(6). On March 10, 2014, relator responded. Attached to her response was a copy of a judgment entry in which respondent set a hearing for April 3, 2014, on the motion to clarify.

{¶18} On December 26, 2014, respondent filed a "suggestion of mootness and corresponding motion to dismiss." In the "suggestion"/"motion," respondent noted that R.S. had been placed in protective supervision, which prompted relator to file her motion to intervene; as discussed above, the motion was denied and the clerk advised relator she could not file additional pleadings in the court because she was not a party to the proceeding. This background prompted relator to file her complaint for writs of mandamus and procedendo. Respondent asserted, however, the trial court has since terminated protective custody and the subject child has been reunited with her mother and father. A copy of the judgment terminating protective custody was attached to the "suggestion"/"motion." Respondent maintains that, as a result of the judgment, there is no case into which relator might intervene and, thus, even if she had a viable claim for

mandamus and/or procedendo, there is no live case or controversy to compel the court into action. Relator filed no response to the foregoing pleading.

{¶19} A review of the judgment attached to respondent's pleading demonstrates the parties agreed that the underlying case should be terminated. Therefore, there is no case into which relator might seek to intervene. Relator's complaint for writs of mandamus and procedendo is therefore dismissed as moot.

{¶20} Pursuant to this judgment, all pending motions are also overruled as moot.

THOMAS R. WRIGHT, J., concurs,

COLLEEN MARY O'TOOLE, J., dissents.