

IN THE COURT OF APPEALS OF OHIO  
FOURTH APPELLATE DISTRICT  
LAWRENCE COUNTY

The State of Ohio ex rel.	:	
Lonny Bristow,	:	
	:	
Relator,	:	Case No. 17CA9
	:	
v.	:	
	:	
Darlene K. Windsor,	:	
	:	<u>DECISION AND</u>
	:	<u>JUDGMENT ENTRY</u>
Respondent.	:	
	:	<b>RELEASED: 7/12/2017</b>

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HARSHA, A.J.,

{¶1} This matter comes before the Court on Relator Lonny Bristow’s motion to proceed to file a mandamus petition pursuant to the vexatious litigator provision in R.C. 2323.52. We **DENY** the motion and **DISMISS** the petition.

{¶2} Bristow is a vexatious litigator under R.C. 2323.52. See *Mayer v. Bristow*, Crawford C.P. No. 98CV0082 (June 1, 1998). “Under R.C. 2323.52(F), a person subject to an R.C. 2323.52(D)(1) vexatious litigator order ‘who seeks to institute or continue any legal proceeding in a court of appeals or to make an application, other than an application for leave to proceed under division (F)(2) of this section, in any legal proceedings in a court of appeals shall file an application for leave to proceed in the court of appeals in which the legal proceedings would be instituted or are pending.’ ” *State ex rel. Sapp v. Franklin Cty. Court of Appeals*, 118 Ohio St.3d 368, 2008-Ohio-2637, 889 N.E.2d 500, ¶19. Leave to proceed will not be granted unless the appellate court “is satisfied that the proceedings or application are not an abuse of process of the

court and that there are reasonable grounds for the proceedings or application.” R.C. 2323.52(F)(2).

{¶3} Bristow seeks leave to file a mandamus petition to compel his aunt, Darlene K. Windsor, to pay him damages for an alleged slander and for a freeze on all of his aunt’s monies and property. Mandamus actions are governed by Ohio Revised Code Chapter 2731. A mandamus is a writ to enforce performance of a specific act by a *public official or agency* and will only be issued where there is a clear legal duty to act. See R.C. 2731.01 (defining mandamus). “Mandamus will not lie to enforce a private right against a private person.” *State ex rel. Longacre v. Penton Publishing Co.* 77 Ohio St.3d 266, 1997-Ohio-276, 673 N.E.2d 1297 (1997) quoting *State ex rel. Russell v. Duncan*, 64 Ohio St.3d 538, 597 N.E.2d 142 (1992).

{¶4} Bristow’s mandamus petition seeks to enforce a private right against a private person. Thus, we **DENY** Bristow’s motion for leave to file a mandamus petition because it is an abuse of process of the court and there are no reasonable grounds for proceeding and **DISMISS** the petition.

{¶5} **MOTION DENIED. PETITION DISMISSED. COSTS TO RELATOR. IT IS SO ORDERED.**

Abele, J. and McFarland, J.: Concur.

**FOR THE COURT**

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William H. Harsha  
Administrative Judge