

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WOOD COUNTY

In re: Ronald Doogs

Court of Appeals No. WD-21-012
WD-21-013

Trial Court No. CP NO 2021MI0001
CP NO 2021MI0002

DECISION AND JUDGMENT

Decided: October 22, 2021

* * * * *

Paul A. Dobson, Wood County Prosecuting Attorney, and
Maria Arlen De la Serna, Assistant Prosecuting Attorney, for appellee.

Ronald Jason Doogs, pro se.

* * * * *

MAYLE, J.

{¶ 1} In this consolidated appeal, Ronald Jason Doogs, pro se, appeals the January 28, 2021 judgment of the Wood County Court of Common Pleas. For the following reasons, we affirm the trial court judgment.

I. Background

{¶ 2} Ronald Jason Doogs filed complaints in the Wood County Court of Common Pleas against two witnesses who testified against him in *State v. Doogs*, Wood County case No. 2013CR0316. Doogs alleged that these witnesses (1) committed perjury, (2) made false statements, (3) engaged in complicity, (4) participated in a sham legal process, and (5) conspired with an assistant Wood County prosecutor, in an effort to secure his convictions for rape and gross sexual imposition—convictions we affirmed in *State v. Doogs*, 6th Dist. Wood No. WD-15-073, 2017-Ohio-6914.

{¶ 3} The trial court construed Doogs’s complaints as private citizen affidavits filed under R.C. 2935.09. It referred them to the Wood County Prosecutor’s Office under R.C. 2935.10(A). To avoid any potential conflict of interest, the prosecutor moved the court to appoint Morris Murray, the Defiance County Prosecutor, to serve as special prosecutor. The trial court granted the motion, appointed Murray, and closed the matter in a judgment journalized January 28, 2021. Doogs appealed. He assigns the following error for our review:

The trial court abused its discretion when it closed this matter without first holding a “probable cause” hearing and/or issuing an arrest warrant after considering all of the evidence submitted by Appellant in support of his complaint[.]

II. Law and Analysis

{¶ 4} In his sole assignment of error, Doogs argues that the trial court erred when it closed this matter without conducting a probable cause hearing or issuing an arrest warrant. The state maintains that the trial court complied with R.C. 2935.09 and 2935.10.

{¶ 5} R.C. 2935.09(D) provides that “[a] private citizen having knowledge of the facts who seeks to cause an arrest or prosecution under this section may file an affidavit charging the offense committed with a reviewing official for the purpose of review to determine if a complaint should be filed by the prosecuting attorney.” Under R.C. 2935.10(A), upon the filing of an affidavit or complaint that alleges the commission of a felony, the reviewing official (i.e., the judge, prosecuting attorney, or magistrate) must issue a warrant for the arrest of the person charged in the affidavit “unless he has reason to believe that it was not filed in good faith, or the claim is not meritorious[.]” In that case, “he shall forthwith refer the matter to the prosecuting attorney * * * for investigation prior to the issuance of warrant.” *Id.* We review the judge’s decision for an abuse of discretion. *Nikooyi v. Affidavit of Criminal Complaint*, 8th Dist. Cuyahoga No. 108787, 2020-Ohio-192, ¶ 15, *appeal not allowed*, 158 Ohio St.3d 1453, 2020-Ohio-1090, 141 N.E.3d 992, citing *Hillman v. O’Shaughnessy*, 10th Dist. Franklin No. 16AP-571, 2017-Ohio-489, ¶ 7; *Johnson v. Archer*, 5th Dist. Delaware No. 1CAE60039, 2017-Ohio-8209, ¶ 10.

{¶ 6} The Supreme Court has repeatedly recognized that R.C. 2935.09 does not require prosecution of all offenses charged by affidavit, nor does it require the court to

conduct a probable cause hearing. *State ex rel. Boylen v. Harmon*, 107 Ohio St.3d 370, 2006-Ohio-7, 839 N.E.2d 934, ¶ 6 (per curiam); *State ex rel. Evans v. Columbus Dept. of Law*, 83 Ohio St.3d 174, 175, 699 N.E.2d 60 (1998); *State ex rel. Brown v. Nusbaum*, 152 Ohio St.3d 284, 2017-Ohio-9141, 95 N.E.3d 365, ¶ 15. R.C. 2935.10 gives the judge two options: (1) issue an arrest warrant, or (2) if the judge has reason to believe the complaint was not filed in good faith or is not meritorious, refer the matter to the prosecuting attorney to investigate. *Nusbaum* at ¶ 12. “The statute does not contemplate a judge’s subsequent review of the prosecutor’s investigation or decision whether to prosecute, and it does not require a judge to issue a final order of dismissal if a prosecutor decides not to prosecute. *Nikooyi* at ¶ 14, quoting *Nusbaum* at ¶ 13. In fact, “once a judge refers a matter to the prosecutor for an investigation, the judge’s ‘duty under R.C. 2935.10 is extinguished.’” *Id.*

{¶ 7} Here, the trial judge did all that was required of him under R.C. 2935.09 and 2935.10. He not only referred the matter to the prosecutor’s office as he was permitted to do under the statutes, he also appointed a special prosecutor to avoid any potential conflict that may exist within the Wood County Prosecutor’s Office. It was not incumbent upon the judge to conduct a probable cause hearing, and he properly extinguished his duty under the statutes. We, therefore, find that he did not abuse his discretion when he closed the matter on January 28, 2021.

{¶ 8} We find Doogs’s sole assignment of error not well-taken.

III. Conclusion

{¶ 9} The trial judge extinguished his duty under R.C. 2935.09 and 2935.10 when he referred Doogs’s private citizen complaints to the Wood County Prosecutor, then assigned a special prosecutor to avoid a conflict of interest. He was not required to conduct a probable cause hearing and did not abuse his discretion in closing the matter. Accordingly, we find Doogs’s assignment of error not well-taken.

{¶ 10} We affirm the January 28, 2021 judgment of the Wood County Court of Common Pleas. Doogs is ordered to pay the costs of this appeal under App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See also 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Christine E. Mayle, J.

JUDGE

Myron C. Duhart, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio’s Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court’s web site at:
<http://www.supremecourt.ohio.gov/ROD/docs/>.