

14 Ohio St. 3d 26, *, 470 N.E.2d 894, **;
1984 Ohio LEXIS 1233, ***; 14 Ohio B. Rep. 328

LEXSEE

**THE STATE, EX REL. CORRIGAN, PROS. ATTY., APPELLANT, v. GRIFFIN,
JUDGE, ET AL., APPELLEES**

No. 84-359

Supreme Court of Ohio

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November 21, 1984, Decided

PRIOR HISTORY: [***1] APPEAL from the Court of Appeals for Cuyahoga County.

Appellee, Judge Burt W. Griffin, was assigned to preside over the case of *State v. Padavick*, No. CR-174473, a murder trial in the Court of Common Pleas of Cuyahoga County.

Between June 1982 and February 1983, several motions were filed on behalf of the defendant, Thomas Padavick, requesting discovery of information in the prosecutor's file. Hearings were conducted and partial discovery was provided, but not to the satisfaction of the defendant.

Ultimately, on March 14, 1983, appellee ordered the prosecutor to turn over to the defense the requested material, with certain exceptions. Appellee also ordered the state or, alternatively, the assistant prosecuting attorney assigned to the case, to pay to the defendant \$ 750 in attorney fees as a sanction for failure to comply with the discovery requests. The order was journalized on March 15, 1983.

No motion for leave to appeal was filed by the state but on March 14, 1984, appellant, the Cuyahoga County Prosecuting Attorney, filed this action against Judge Griffin and the Court of Common Pleas of Cuyahoga County seeking the issuance of a writ to prohibit appellee [***2] from enforcing his discovery order.

The court of appeals denied the writ and the cause is now before this court upon an appeal as of right.

DISPOSITION: *Judgment affirmed.*

HEADNOTES

Criminal law -- Prohibition to prevent common pleas judge from enforcing discovery order in criminal case -- Writ denied, when -- Court has authority to enter pretrial discovery order.

COUNSEL: *Mr. John T. Corrigan*, prosecuting attorney, *Mr. George J. Sadd* and *Mr. William Vance*, for appellant.

Gold, Rotatori, Schwartz & Gibbons Co., L.P.A., and *Mr. Niki Z. Schwartz*, for appellees.

JUDGES: CELEBREZZE, C.J., W. BROWN, SWEENEY, LOCHER, HOLMES, C. BROWN and J. P. CELEBREZZE, JJ., concur.

OPINION BY: PER CURIAM

OPINION

[*27] " * * * [*895] It is well-settled that in order for prohibition to lie, three requirements must be satisfied: '(1) the court or officer against whom it is sought is about to exercise judicial or quasi-judicial power; (2) the exercise of such power is unauthorized by law; and (3) it will result in injury for which no other adequate remedy exists.' *Ohio Bell v. Ferguson* (1980), 61 Ohio St. 2d 74, 76 [15 O.O.3d 117]. See, also, *State, ex rel. Henry, v. Britt* [***3] (1981), 67 Ohio St. 2d 71, 73 [21 O.O.3d 45]; *State, ex rel. Bell, v. Blair* (1975), 43 Ohio St. 2d 95, 96 [72 O.O.2d 53]." *State, ex rel. Dow Chemical Co., v. Court* (1982), 2 Ohio St. 3d 119, 120.

The court of appeals denied the writ, finding that appellee was authorized to enter the order in question and that appellant did not avail himself of the remedy which was available by way of appeal.

We agree. The trial court has authority to enter pretrial orders regarding discovery. Crim. R. 16. Moreover, appellant could have sought leave to appeal pursuant to R.C. 2945.67, wherein any errors with respect to appellee's order could have been raised. The availability of an appeal under R.C. 2945.67 is an adequate remedy at law sufficient to preclude the granting of an extraordinary

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writ. *State, ex rel. Cleveland, v.. Calandra* (1980), 62 Ohio St. 2d 121, 122 [16 O.O.3d 143]; *State, ex rel. Zoller, v.. Talbert* (1980), 62 Ohio St. 2d 329, 330 [16 O.O.3d 391].

affirmed.

Judgment affirmed. [***4]

Accordingly, the judgment of the court of appeals is