

PETITION OF LOREN SHUCK FOR A WRIT OF MANDAMUS

Submitted on Briefs November 29, 2023

Decided December 14, 2023

Panel: MEAD, JABAR, CONNORS, and LAWRENCE, JJ.

MEMORANDUM OF DECISION

Loren Shuck appeals from the judgment of a single justice of the Supreme Judicial Court (*Horton, J.*) dismissing or otherwise denying the following requests for relief related to BELDC-FM-2022-00093: (1) vacate the order appointing a guardian ad litem, (2) grant the motion to proceed without paying fees,¹ (3) grant a “grievance” against the trial judge, (4) transfer the divorce case to a federal court, and (5) grant mandamus relief requiring the trial judge to (a) respond to his motions, (b) comply with the ADA, and (c) order various public officials to investigate Shuck’s wife and her attorney.

Shuck failed to preserve the issues involving appointing a GAL and removing his divorce proceeding to federal court because he did not address them in his brief.² *See Holland v. Sebunya*, 2000 ME 160, ¶ 9 n.6, 759 A.2d 205; *Mehlhorn v. Derby*, 2006 ME 110, ¶ 11, 905 A.2d 290.

¹ The motion to proceed without paying fees is moot because this Court granted Shuck’s motion, and there is no actual controversy for the Court to resolve. *Clark v. Hancock Cty. Comm’rs*, 2014 ME 33, ¶ 11, 87 A.3d 712.

² Alternatively, even if Shuck has preserved the appointment of the GAL and removal to federal court issues for our review, they are inappropriate for mandamus relief because there is an alternative remedy available through Shuck’s direct appeal in Docket No. BELDC-FM-2022-00093. *Young v. Johnson*, 161 Me. 64, 69-70, 207 A.2d 392, 395 (1965).

The Single Justice did not err in denying the remaining requests for relief. Mandamus relief is only appropriate when (1) the defendant is legally entitled to the requested act, (2) the act is ministerial, and (3) there is no other avenue for relief. *Young v. Johnson*, 161 Me. 64, 69-70, 207 A.2d 392, 395 (1965).

This Court has established the Judicial Conduct Committee to review complaints regarding judges throughout the state. *See In re Nadeau*, 2007 ME 21, ¶¶ 9-10, 914 A.2d 714 (discussing the Judicial Conduct Committee established by the Supreme Judicial Court according to its regulatory power over the courts). Because the Judicial Conduct Committee provides an alternative route for Shuck to address a trial justice's conduct, mandamus cannot lie. If Shuck concludes that he has a factual and legal basis for his grievance he may pursue it with the committee.

Similarly, Shuck's request for this Court to order the trial justice to (a) respond to his motions and (b) comply with the ADA are not appropriate for mandamus relief because they involve judicial acts as opposed to ministerial acts, and Shuck has an alternative remedy in his direct appeal in Docket No. BELDC-FM-2022-00093. *See Young*, 161 Me. at 69-70, 207 A.2d at 395 (describing the difference between judicial and ministerial acts).

Finally, Shuck asks this Court to order various public officials to investigate his wife and her attorney. However, criminal investigations are executive functions, not subject to judicial control. Me. Const. art. III, § 2; *Burr v. Dep't of Corr.*, 2020 ME 130, ¶ 21, 240 A.3d 371 ("The oath for judicial office does not confer a roving commission to seek out and correct violations. Judges must also adhere to the constitutional limitations on judicial power." (quotation marks omitted)). The power to discipline attorneys resides in the Maine Supreme Judicial Court. *In re Feingold*, 296 A.2d 492, 496-97 (Me. 1972). To the extent Shuck has a complaint regarding his wife's attorney, this Court established the Board of Overseers of the Bar, and complaints regarding attorney conduct are pursued through the Board, thereby creating an alternative remedy, making the request inappropriate for mandamus relief. If Shuck concludes that he has a factual and legal basis for a complaint he may pursue it with the Board. *See* Me. Bar Rules 2(a), 3, 9, 13, 14; <https://www.mebaroverseers.org/complaint/index.html>.

The entry is:

Judgment affirmed.

Loren Shuck, appellant pro se

Supreme Judicial Court docket number SJC-2022-14
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