

**THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
PORTAGE COUNTY, OHIO**

EMELDA A. SNYPE,	:	PER CURIAM OPINION
Petitioner,	:	CASE NO. 2009-P-0031
- vs -	:	
JUDGE BARBARA R. OSWICK,	:	
Respondent.	:	

Original Action.

Judgment: Petition dismissed.

Emelda Snype, pro se, 350 Aberdeen Lane, Aurora, OH 44202 (Petitioner).

Judge Barbara J. Oswick, Portage County Municipal Court, 203 West Main Street, Ravenna, OH 44266 (Respondent).

PER CURIAM

{¶1} Petitioner, Emelda A. Synpe, initiated the instant action through the filing of a pleading which was captioned as a “Petition for Writ of Stay of an Eviction.” In the text of this pleading, petitioner asserted that respondent, Judge Barbara J. Oswick, had ordered her to vacate certain premises as a condition of her bail in a pending criminal case before the Portage County Municipal Court.

{¶2} Our review of the various allegations in the pleading shows that petitioner has failed to expressly indicate what type of proceeding she intended to maintain before

this court. To the extent that petitioner named Judge Oswick as the “respondent” in the case, it could be argued that she sought to bring an original action. Yet, her assertions readily indicated that she was only seeking relief which can be granted in the context of a pending appeal; i.e., a stay order regarding the conditions of her criminal bail.

{¶3} After fully considering the substance of the instant pleading, this court concludes that petitioner has failed to properly invoke our jurisdiction. First, we would note that, pursuant to Section 3(B)(1), Article IV of the Ohio Constitution, the “original” jurisdiction of a court of appeals is limited to five specific actions: mandamus, habeas corpus, prohibition, procedendo, and quo warranto. Thus, if a petition for relief does not state a viable claim for any of these five writs, an appellate court lacks the authority to proceed. See *Lakeland Bolt & Nut Co. v. Grdina*, 8th Dist. No. 89955, 2007-Ohio-2908; *State ex rel. Biros v. Logan*, 11th Dist. No. 2003-T-0016, 2003-Ohio-5425. This logic would readily apply in this instance; that is, since petitioner did not seek relief under any of the five permissible claims, this matter cannot go forward as an original action.

{¶4} Second, this court would emphasize that App.R. 3(A) expressly provides that an appeal from a final judgment of a trial court is to be initiated by the filing of a notice of appeal. In the instant proceeding, the docket demonstrates that petitioner never submitted a notice of appeal in conjunction with her stay request. In addition, our review of her sole pleading shows that it did not contain any language which could be construed as a request to institute an appeal. Thus, this matter likewise cannot proceed as a direct appeal of a final judgment.

{¶5} As petitioner failed to follow the proper procedure for invoking the original or appellate jurisdiction of this court, it is hereby ordered that the instant action is sua

sponte dismissed.

MARY JANE TRAPP, P.J., DIANE V. GREDELL, J., CYNTHIA WESTCOTT RICE, J.,
concur.