Missouri Court of Appeals

Southern District

In Division

STATE OF MISSOURI, EX REL,

GERALD J. COFIELD,

Relator,

v.

THE HONORABLE DAVID R. MUNTON,

Respondent.

No. SD39482

Filed: November 18, 2026

PRELIMINARY WRIT OF MANDAMUS MADE PERMANENT

Gerald J. Cofield, ("Relator") seeks a writ of mandamus directing the Honorable David R. Munton, ("Respondent") to sign and file a written Judgment denominated "Judgment" in order to dispose of Relator's Rule 74.06(b) motion[1]. Upon review of the evidence and related arguments, we make our preliminary writ permanent.

[1] All rule references are to Missouri Court Rules (2025).

Facts and Procedural History

On March 18, 2025, Respondent filed a "Consent Judgment" in the underlying case. The Judgment ruled on the merits of the case and detailed the way the parties came before the circuit court. On October 7, 2025, Relator filed a Rule 74.06(b) motion asking the circuit court to set aside the Judgment, stay enforcement, and quash any resulting judgment lien.

Upon hearing the motion, Respondent issued a docket entry stating: "Court after review of all suggestions and motions denies the Motion to Set Aside Judgment." The docket entry had no formal designation as a "Judgment." Relator then filed a notice of appeal to this Court. We dismissed Relator's appeal finding that no final judgment existed.[2]

Seeing this, Relator returned to the circuit court and requested a final written judgment on the motion. The request was denied by Respondent via docket entry. The denial prompted Relator to file this original writ proceeding on March 27, 2026. In response, Respondent was ordered to show cause as to why the request for preliminary writ was to be denied. Respondent failed to respond.

On April 15, 2026, this Court issued a preliminary writ directing Respondent "to refrain from taking further action in [the underlying case] until further order of the

[2] *See* ***Gills v. Cofield***, SD39368 (Mo. App. S.D. February 4, 2026).

Court, except to enter a written judgment disposing of Relator's Rule 74.06(b) motion. Our preliminary writ went on to state that **"**[f]ailure to file an answer may result in entry of a final order for the relief requested in Relator's petition." Respondent failed to file an answer. Relator now asks this Court to make its preliminary writ permanent.

Discussion

The Missouri Constitution art. V, § 4.1 grants this Court the authority to "issue and determine original remedial writs."

> The purpose of the extraordinary writ of mandamus is to compel the performance of a ministerial duty that one charged with the duty has refused to perform. The writ can only be issued to compel a party to act when it was [his] duty to act without it. A litigant asking relief by mandamus must allege and prove that [he] has a clear, unequivocal, specific right to a thing claimed. This Court will not issue a remedial writ in cases wherein adequate relief can be afforded through an appeal. Rule 84.22(a).

State ex rel. Henderson v. Asel, 566 S.W.3d 596, 598 (Mo. banc 2019) (internal quotations and citations omitted).

Rule 74.06(b) provides relief from final judgment, upon motion, for a number of different reasons. "We have stated that a Rule 74.06(b) motion filed after a judgment becomes final is an independent action requiring the trial court to enter a separate judgment." ***McCullough v. Commerce Bank, N.A.***, 368 S.W.3d 296, 300 (Mo. App. W.D. 2012); ***Bi-State Dev. Agency of Mo.-Ill. Metro. Dist. v. Ames Realty Co.***, 258 S.W.3d 99, 106 (Mo. App. W.D. 2008).

An entry of judgment requires a signed writing by the judge denominated "judgment" or "decree." Rule 74.01(a). A judgment may come via docket entry, but it must still denominate itself as a judgment. ***Id.*** Respondent's docket entry stated: "Motion Denied. Court after review of all suggestions and motions denies the Motion to Set Aside Judgment." The entry was not denominated "judgment" as required by Rule 74.01(a). As a Rule 74.06(b) motion requires a final judgment, Respondent's docket entry does not create an appealable judgment. Mandamus is appropriate to compel Respondent to file an appropriate final judgment. *See* ***Henderson***, 566 S.W.3d at 598-600.

Conclusion

For the reasons set forth above, the preliminary writ of mandamus is made permanent. Respondent is directed to sign and file a written judgment denominated as "Judgment" disposing of Relator's Rule 74.06(b) motion.

BRYAN E. NICKELL, J. – OPINION AUTHOR

BECKY J. WEST, C.J. – CONCURS

JACK A. L. GOODMAN, J. – CONCURS