

227 So.3d 1176
Court of Appeals of Mississippi.

John CATHCART, Appellant
v.
Kenneth FAIRLY, Individually, and in his Official
Capacity as Justice Court Judge, and [Jessica
Massey](#), Individually, and in her Official Capacity
as Justice Court Clerk, Appellees

NO. 2016-CA-00964-COA
|
09/19/2017

Synopsis

Background: Alleged victim of crime filed petitions for writ of certiorari and mandamus, challenging decision of justice court finding no probable cause to issue arrest warrants. The Circuit Court, Rankin County, [Steve S. Ratcliff, III](#), J., dismissed the matter without prejudice. Alleged victim appealed.

[Holding:] The Court of Appeals, [Fair](#), J., held that alleged victim of crime lacked standing to contest justice court's finding that there was no probable cause to issue arrest warrants.

Affirmed.

West Headnotes (1)

[1] **Criminal Law**
 Right of review

Alleged victim of crime lacked standing to contest justice court's finding that there was no probable cause to issue arrest warrants for alleged simple assault. [Miss. Code. Ann. §§ 99-36-5\(3\), 99-43-17](#).

[Cases that cite this headnote](#)

RANKIN COUNTY CIRCUIT COURT, HON. STEVE S. RATCLIFF III, JUDGE.

Attorneys and Law Firms

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ATTORNEY FOR APPELLEES: [JASON EDWARD
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EN BANC.

Opinion

[FAIR](#), J., FOR THE COURT:

¶ 1. John Cathcart, the alleged victim of a crime, seeks to collaterally attack a decision of the Rankin County Justice Court finding no probable cause to issue misdemeanor arrest warrants for the alleged perpetrators. The circuit court dismissed Cathcart's petitions for a writ of certiorari and mandamus. We find that Cathcart lacks standing to seek either remedy, and so we affirm.

DISCUSSION

¶ 2. Cathcart alleges that, when he attempted to attend a neighborhood association meeting, two individuals bullied him and physically forced him to leave. He filed affidavits in the Rankin County Justice Court alleging that the two had committed simple assault. The justice court held a probable cause hearing, where Cathcart testified, and the justice court apparently found that there was no probable cause to issue arrest warrants. The disposition on the court abstract, however, reads only "no authority per Judge Fairley."

¶ 3. Cathcart was not pleased with this outcome. He proceeded to file what he styled a "Petition for writ of certiorari, and complaint for declaratory judgment, and petition for writ of mandamus" in the Rankin County Circuit Court. The petition presented various allegations

of defects in the probable cause hearing, allegations of misconduct and bias by the justice court *1177 judge, and so on. It alleged that there was no final disposition of the justice court case, and it requested that the circuit court conduct a “trial de novo” on the question of probable cause and proceed with trying the cases as misdemeanors or binding them over to a grand jury to consider felony charges. In the alternative, the petition alleged that Cathcart was entitled to a writ of mandamus ordering the justice court judge and justice court clerk to “follow their respective oaths of office in this matter” and apparently to conduct another probable cause hearing.

¶ 4. The circuit court found that it “lacked jurisdiction” over the matter and dismissed the complaint without prejudice.

¶ 5. On appeal, both parties present various arguments concerning jurisdiction and procedure. But it is apparent to us that these issues are moot, as Cathcart lacks standing to contest the justice court’s disposition (or not) of the prosecution. Even though misdemeanor prosecutions may be initiated by the filing of an affidavit by a victim, it is axiomatic that the victim is not a party to the prosecution. The [Mississippi Constitution, Article 6, Section 169](#), provides in relevant part that “all prosecutions shall be carried on in the name and by authority of the ‘State of Mississippi.’ ” The Mississippi Code also explicitly provides that “[a] victim ... does not have standing to

participate as a party in a criminal proceeding or to contest the disposition of any charge.” [Miss. Code Ann. § 99–36–5\(3\)](#) (Rev. 2015). The statute further provides that “[t]he rights of the victim do not include the authority to direct the prosecution of the case.” [Miss. Code Ann. § 99–43–17](#) (Rev. 2015). Other courts that have considered this issue have unanimously concluded that victims lack standing to contest the disposition of criminal cases. See [Cooper v. District Court](#), 133 P.3d 692, 696–711 (Alaska Ct. App. 2006) (“[C]ourts from other states are unanimous in holding that a crime victim does not have the right to participate as an independent party in a criminal case.”).

¶ 6. **AFFIRMED.**

LEE, C.J., IRVING AND GRIFFIS, P.J.J., BARNES, CARLTON, WILSON, GREENLEE AND WESTBROOKS, JJ., CONCUR.

All Citations

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