



IN RE: EMERGENCY PETITION TO
POSTPONE CHESTER COUNTY SHERIFF
SALES

: IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA

: NO. 2026-04347-MJ

: CIVIL ACTION

ORDER

AND NOW, this 18th day of May, 2026, upon consideration of the Emergency Petition of the Sheriff of Chester County, Pennsylvania, to Postpone Chester County Sheriff Sales, the Supplement to the Petition, and all related filings, it is ORDERED that the Petition is DENIED.¹

BY THE COURT:



Anthony T. Verwey, J.

¹ This matter was commenced by petition. Rule 1007 provides for the commencement of an action by filing either a praecipe for a writ of summons or a complaint. Pa.R.Civ.P. 1007 ("An action may be commenced by filing with the prothonotary: (1) a praecipe for writ of summons, or (2) a complaint."). Where a party commences the action by filing a petition without first filing a complaint or writ of summons, the court lacks jurisdiction. *In re G.J.K. & Sons. LLC*, 175 A.3d 1033, 1036 (Pa.Super. 2017)(holding trial court lacked jurisdiction and the trial court order was a nullity because suit was improperly commenced by petition and rule); *In re Correction of Official Records with Civil Action*, 404 A.2d 741, 743 (Pa.Cmwlt. 1979)(remanding action commenced by petition and rule to the trial court for dismissal of the proceeding "because the commencement of this action was improper under Pa.R.C.P. No. 1007, the court below had no power to act whatsoever, and there was no jurisdiction established..."). The only proper course for the court when an action has been improperly commenced is to dismiss the action.

In *In re Correction of Official Records* relied upon by Petitioner, the Recorder of Deeds in Columbia and Montour counties commenced proceedings

by filing a petition and a rule to show cause. The Recorder of Deeds sought a blanket order "to remove from the public records and from the grantor-grantee indices the recording of hundreds of oil and gas leases executed by various grantors in favor of appellant, Energy Explorations. The reason given for striking these recordings was allegedly improper notarization." *Id.* at 742. The Commonwealth Court reversed and remanded with instructions to dismiss the actions based solely on the manner in which the action was commenced. The Court explained the only exceptions to the rule that requires a complaint or writ to commence an action are:

"Proceedings by rule may be had only where authorized by statute (citation omitted); or as auxiliary for the facilitation of jurisdiction already had (citation omitted); or as a means of correcting a court's own records (citation omitted)." *Butler Area Sewer Authority v. Northwest Sanitary Sewer System Authority*, 3 Pa.Cmwlth. 76, 84, 281 A.2d 87, 91 (1971).

Id. at 742-43. The Court concluded that the "rule and petition clearly functioned as original process because there existed no pending action to which the petition could be considered auxiliary." *Id.* at 743. The same is true here. Petitioners commenced this action by filing an Emergency Petition and there is no pending action to which the petition can be considered auxiliary.

Petitioner also cites *Butler Area Sewer Auth. v. Nw. Sanitary Sewer Sys. Auth.*, 281 A.2d 87 (Pa.Cmwlth. 1971) to support its argument that this court has jurisdiction over a matter commenced by petition. In *Butler*, the Court explained:

Proceedings by rule may be had only where authorized by statute, *Short v. Board of the School District of Upper Moreland*, [165 A. 669 (Pa.Super. 1933)]; or as auxiliary for the facilitation of jurisdiction already had, *Automobile Banking Corporation v. Weicht*, 160 Pa.Super.422, 51 A.2d 409 (1947); or as a means of correcting a court's own records, *Delco Ice Manufacturing Company v. Frick Company, Inc.*, 318 Pa. 337, 178 A. 135 (1935).

Id. at 91. The Court held that the common pleas judge erred when granting the petition of a municipal authority for judicial approval of the payment of money by the Authority to the owners of properties assessed for benefits conferred by the construction of a sewer by the Authority because a "rule is not properly original process and this rule should not have been granted." *Id.* The Court noted the Authority's "petition for rule sought nothing other than the court's imprimatur of its decision to pay the funds to its first customers." *Id.* *Butler* does not lend support to Petitioner's argument. To the contrary, *Butler* supports the conclusion that where, as here, there is no action pending,

a petition seeking the court's imprimatur of a decision already made, i.e., to postpone several Sheriff Sales, is improper and must be denied.