

Final Copy

291 Ga. 78

S12A0494. McRAE v. PADGETT.

HUNSTEIN, Chief Justice.

Appellant Margie McRae filed a petition for writ of mandamus seeking to compel a magistrate judge to issue arrest warrants against John Gore, whom she had hired to make various improvements to real property, and another individual. In applying for the warrants, McRae alleged that she had hired Gore and advanced several thousand dollars to him for construction materials; that, although Gore procured materials for the job, he failed to pay the supply companies, which then recorded materialman's liens against McRae's property; and that Gore had also failed to complete the promised improvements. The magistrate held a warrant application hearing, at which both McRae and Gore presented evidence, and ultimately issued an arrest warrant for Gore for violations of OCGA § 16-8-15 (designating as a criminal felony the misappropriation of payments for real property improvements). Dissatisfied with the magistrate's failure to issue additional warrants, McRae sought mandamus to compel their issuance. The trial court granted summary judgment in the magistrate's favor, and McRae now appeals.

It is well established that

a magistrate judge has discretion to determine whether or not probable cause exists for the issuance of an arrest warrant and that mandamus will not lie to compel the magistrate judge to perform this discretionary act unless a gross abuse of discretion has been shown.

Uzomba v. Cobb County Magistrate Court, 279 Ga. 629, 630 (1) (619 SE2d 683) (2005). Accord Nalley v. Howell, 268 Ga. 63 (1) (487 SE2d 600) (1997); Chisholm v. Cofer, 264 Ga. 512 (448 SE2d 369) (1994). Having found no such abuse of discretion, we affirm. Uzomba, supra at 630 (1); Nalley, supra at 63 (1); Chisholm, supra at 512.

Judgment affirmed. All the Justices concur.

Decided May 7, 2012.

Mandamus. Telfair Superior Court. Before Judge Wall.

Margie McRae, pro se.

Joseph I. Marchant, Ashley W. McLaughlin, for appellees.