

COMMONWEALTH COURT OF PENNSYLVANIA

P.F. Katonka v. PBPP King & Assoc., Inc.

Katonka · No. 377 M.D. 2019 · Decided October 26, 2022

SUMMARY

The Pennsylvania Commonwealth Court considered an amended petition for a writ of mandamus filed by Paul Frank Katonka concerning payment for mandatory counseling required under Pennsylvania's Sexual Offender Registration and Notification Act. The court held that it lacked subject matter jurisdiction because the statute's reference to "the court" meant the sentencing court, not the Commonwealth Court. The matter was transferred to the Court of Common Pleas of Westmoreland County.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Christine Fizzano Cannon, J.; Michael H. Wojcik, J.; Stacy Wallace, J.
JURISDICTION	Pennsylvania
DECIDED	October 26, 2022
DOCKET	377 M.D. 2019
DISPOSITION	remanded
PROCEDURAL POSTURE	Katonka filed an amended petition for a writ of mandamus in the Commonwealth Court's original jurisdiction seeking to compel the Pennsylvania Board of Probation and Parole to pay for mandatory counseling and reimburse previously paid counseling fees. The Board filed preliminary objections, including an objection based on lack of jurisdiction. The court sua sponte determined that it lacked subject matter jurisdiction and transferred the matter to the Court of Common Pleas of Westmoreland County.
STANDARD OF REVIEW	Subject matter jurisdiction was considered de novo and sua sponte; jurisdiction cannot be waived and may be raised at any time by the parties or the court.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Paul Frank Katonka v. Pennsylvania Board of Probation and Parole, King and Associates, Inc.

TOPICS

subject matter jurisdiction

civil procedure

statutory interpretation

administrative law

remedies

PRACTICE AREAS

civil procedure

administrative law

statutory interpretation

remedies

parole

QUESTIONS PRESENTED

1. Whether the Commonwealth Court had original subject matter jurisdiction over Katonka's mandamus petition seeking payment of mandatory counseling costs under 42 Pa.C.S. § 9799.70(a).
2. Which court is the court referenced in 42 Pa.C.S. § 9799.70(a) for determining whether a sexually violent predator cannot afford mandatory counseling fees.

HOLDINGS

1. The Commonwealth Court lacked original subject matter jurisdiction over Katonka's claim because SORNA II did not confer original jurisdiction on the Commonwealth Court to determine inability to pay mandatory counseling fees.
2. The 'court' referenced in 42 Pa.C.S. § 9799.70(a) is the sentencing court, here the Court of Common Pleas of Westmoreland County.

KEY QUOTATIONS

“Accordingly, we conclude that the “court” referenced in Section 9799.70(a) is the sentencing court and that Section 9799.70(a) does not confer original jurisdiction on this Court to determine whether a parolee is unable to pay counseling fees pursuant to Section 9799.70(a).” (5-6)

“Because we lack jurisdiction over the subject matter of the Petition, we do not address its merits or those of the preliminary objections. However, rather than dismiss the Petition, we will transfer it to the sentencing court.” (6-7)

FACTUAL BACKGROUND

Paul Frank Katonka was adjudicated a sexually violent predator in 2013 and was paroled in 2018. Under SORNA II, he was required to attend monthly counseling for the applicable registration period and had paid the counseling costs since 2019. He alleged that he could not afford the mandatory counseling and sought an order requiring the Pennsylvania Board of Probation and Parole to pay the fees and reimburse amounts previously paid.

PROCEDURAL HISTORY

Katonka, a sexually violent predator subject to mandatory counseling after parole, filed an amended mandamus petition against the Board and King and Associates, Inc. The Board filed preliminary objections. Without reaching the merits or the preliminary objections, the Commonwealth Court held that the Court of Common Pleas was the proper court to determine inability to pay under SORNA II and transferred the matter there.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The matter was transferred to the Court of Common Pleas of Westmoreland County, the sentencing court, for disposition. The transferee court must treat the matter as if originally filed there on the date first filed in a court.

CASES CITED

- Pennhurst Med. Grp., P.C. v. Dep't of Pub. Welfare, 796 A.2d 423, 425 (Pa. Cmwlth. 2002)
- St. Clair v. Pa. Bd. of Prob. & Parole, 493 A.2d 146, 150 (Pa. Cmwlth. 1985)

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