

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia ex rel. Pressley Ridge; Elkins Mountain School; Academy Management, LLC; Stepping Stones, Inc.; Stepping Stone, Inc.; Family Connections, Inc.; and Board of Child Care of the United Methodist Church, Inc. v. West Virginia Department of Health and Human Resources; Karen L. Bowling; West Virginia Bureau for Medical Services; Cynthia Beane; West Virginia Bureau for Children and Families; and Nancy Exline

State ex rel. Pressley Ridge v. West Virginia Department of Health and Human Resources, No. 16-0738 (W. Va. Nov. 17, 2016) · No. No. 16-0738 · Decided November 17, 2016

SUMMARY

The Supreme Court of Appeals of West Virginia granted a writ of mandamus as moulded in a challenge by residential child-care providers to proposed changes in reimbursement and service policies implemented by the West Virginia Department of Health and Human Resources and related agencies. Because the record was insufficient to determine whether the changes conflicted with existing law or required legislative rulemaking, the Court transferred the matter to the Circuit Court of Kanawha County for evidentiary proceedings and further orders. The Court emphasized the role of circuit courts in determining appropriate placements for children and the need for interbranch cooperation.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Workman; Justice Benjamin; Justice Loughry
JURISDICTION	West Virginia
DECIDED	November 17, 2016
DOCKET	No. 16-0738
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The petitioners sought a writ of mandamus compelling state agencies to promulgate new or amended legislative rules before implementing changes to residential child-care services and reimbursement policies. They previously sought preliminary injunctive relief in the Circuit

	Court of Kanawha County, which denied relief, and then filed the mandamus petition in the Supreme Court of Appeals of West Virginia.
STANDARD OF REVIEW	Mandamus requires a clear legal right in the petitioner, a corresponding legal duty on the respondent, and the absence of another adequate remedy. Because mandamus is extraordinary relief, it should be invoked sparingly.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Pressley Ridge, Elkins Mountain School, Academy Management, LLC, Stepping Stones, Inc., Stepping Stone, Inc., Family Connections, Inc., Board of Child Care of the United Methodist Church, Inc. v. West Virginia Department of Health and Human Resources, Karen L. Bowling, West Virginia Bureau for Medical Services, Cynthia Beane, West Virginia Bureau for Children and Families, Nancy Exline

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QUESTIONS PRESENTED

1. Whether the petitioners had established a clear legal right to require the respondents to promulgate new or amended legislative rules before implementing the proposed residential child-care and reimbursement policies.
2. Whether the respondents had a corresponding legal duty to complete legislative rulemaking before implementing the proposed policy changes.
3. Whether the Supreme Court could resolve the mandamus petition on the existing record or should transfer the matter to the circuit court for evidentiary proceedings.

HOLDINGS

1. A writ of mandamus will not issue unless the petitioner has a clear legal right to the relief sought, the respondent has a legal duty to perform the compelled act, and there is no other adequate remedy.
2. The existing record was insufficient to determine whether the petitioners had a clear legal right to require legislative rulemaking or whether the respondents had a legal duty to undertake it before implementing the new policies.
3. The mandamus matter should be docketed and proceed in the Circuit Court of Kanawha County as if originally brought there, with factual hearings and specified submissions concerning the altered policies, their compliance with law, their effect on judicial discretion, and the need for legislative rulemaking.

KEY QUOTATIONS

“A writ of mandamus will not issue unless three elements coexist - (1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel; and (3) the absence of another adequate remedy.” (Syllabus point 1)

“To entitle one to a writ of mandamus, the party seeking the writ must show a clear legal right thereto and a corresponding duty on the respondent to perform the act demanded.” (Syllabus point 2)

“In the absence of a more complete record in the case sub judice, this Court is unable to discern whether extraordinary relief is justified” (11)

FACTUAL BACKGROUND

The petitioners were residential youth-service providers operating under state contracts using bundled reimbursement rates for room, board, supervision, and medical treatment. The respondents proposed replacing the bundled system with unbundled reimbursement, changing service levels, placement and discharge procedures, and related residential-care policies. The proposed changes had been discussed in meetings and training sessions, but the record did not establish the final content of all policies or whether they conflicted with existing statutes and regulations.

PROCEDURAL HISTORY

The circuit court denied the petitioners' request for a preliminary injunction, finding jurisdictional and separation-of-powers problems and concluding that no legal standards required legislative rulemaking. The petitioners did not appeal that ruling and instead filed a mandamus petition in the Supreme Court. The Supreme Court stayed implementation of the changes, granted the writ as moulded, and transferred the matter to the Circuit Court of Kanawha County for development of an evidentiary record and further proceedings.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The matter was transferred to the Circuit Court of Kanawha County as if it had been brought there as an original mandamus proceeding. Within thirty days of the Supreme Court's order, each party was directed to submit documents detailing each altered policy, explaining its compliance or conflict with statutory and regulatory requirements, describing its effect on circuit-court discretion, and addressing whether legislative rulemaking was required before implementation. The circuit court was directed to conduct expeditious hearings, develop factual issues concerning statutory and regulatory compliance, and enter appropriate orders. The case was assigned to Judge Kaufman.

CASES CITED

- State ex rel. Kucera v. City of Wheeling, 153 W. Va. 538, 170 S.E.2d 367 (1969)
- Dadisman v. Moore, 181 W. Va. 779, 384 S.E.2d 816 (1989)

- State ex rel. Billings v. City of Point Pleasant, 194 W. Va. 301, 460 S.E.2d 436 (1995)
- Motto v. CSX Transportation, Inc., 220 W. Va. 412, 647 S.E.2d 848 (2007)
- E. H. v. Matin, 168 W. Va. 248, 284 S.E.2d 232 (1981)
- State ex rel. Ohl v. Egnor, 201 W. Va. 777, 500 S.E.2d 890 (1997)
- State ex rel. West Virginia Department of Health and Human Resources v. Frazier, 198 W. Va. 678, 482 S.E.2d 663 (1996)
- Mary D. v. Watt, 190 W. Va. 341, 438 S.E.2d 521 (1992)
- In re B.H., 233 W. Va. 57, 754 S.E.2d 743 (2014)
- In re Timber M., 231 W. Va. 44, 743 S.E.2d 352 (2013)
- In Interest of Carlita B., 185 W. Va. 613, 408 S.E.2d 365 (1991)
- West Virginia Racing Commission v. Reynolds, 236 W. Va. 398, 780 S.E.2d 664 (2015)
- Coordinating Council for Independent Living, Inc. v. Palmer, 209 W. Va. 274, 546 S.E.2d 454 (2001)

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