

SUPREME COURT OF OHIO

State ex rel. Scioto Metals, Inc. v. Industrial Commission

State ex rel. Scioto Metals, Inc. v. Indus. Comm'n, 92 Ohio St. 3d 232 (Ohio 2001) · Decided July 11, 2001

SUMMARY

The Ohio Supreme Court affirmed the denial of a writ of mandamus sought by Scioto Metals, Inc. to vacate Industrial Commission findings that it violated two specific safety requirements. The court held that some evidence supported the Commission’s findings and that the Commission properly evaluated the evidentiary weight and credibility concerning Reese’s workplace injuries.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                 |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Ohio                                                                                                                                                                                                                                                                           |
| WRITING FOR THE COURT | Per Curiam; Chief Justice Moyer; Justice Douglas; Justice Resnick; Justice F.E. Sweeney; Justice Pfeifer; Justice Cook; Justice Lundberg Stratton                                                                                                                                               |
| JURISDICTION          | Ohio                                                                                                                                                                                                                                                                                            |
| DECIDED               | July 11, 2001                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Scioto Metals appealed as of right from the Franklin County Court of Appeals' denial of its petition for a writ of mandamus seeking to compel the Industrial Commission to vacate its VSSR findings.                                                                                            |
| STANDARD OF REVIEW    | In mandamus review of an Industrial Commission order, the order may not be disturbed for abuse of discretion when some evidence supports it. The Commission determines the weight and credibility of the evidence, and reviewing courts may not substitute their judgment for the Commission's. |
| PRECEDENTIAL VALUE    | Published Ohio Supreme Court opinion; precedential.                                                                                                                                                                                                                                             |
| PARTIES               | Scioto Metals, Inc. v. Industrial Commission of Ohio, Grant E. Reese                                                                                                                                                                                                                            |

TOPICS

- judicial review of agency action
- administrative law
- workers compensation
- remedies
- evidence

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether some evidence supported the Industrial Commission's finding that Scioto Metals violated Ohio Adm.Code 4121:1-5-11(D)(10)(a).
2. Whether some evidence supported the Industrial Commission's finding that Scioto Metals violated Ohio Adm.Code 4121:1-5-05(D)(1), causing Reese's injuries.
3. Whether Scioto Metals was entitled to a writ of mandamus because the Commission abused its discretion in granting Reese's VSSR application.

## HOLDINGS

1. The record contained some evidence supporting the Commission's findings that Scioto Metals violated Ohio Adm.Code 4121:1-5-11(D)(10)(a) and 4121:1-5-05(D)(1), and that the violations caused Reese's injuries.
2. A Commission order supported by some evidence cannot be disturbed in mandamus as an abuse of discretion.

## KEY QUOTATIONS

*“Where some evidence supports the commission’s order, it cannot be disturbed in mandamus as an abuse of the commission’s discretion.”*

*“The commission is the evaluator of evidentiary weight and credibility, and neither we nor the court of appeals can substitute our judgment for the commission’s in making those determinations.”*

## FACTUAL BACKGROUND

In 1996, Grant E. Reese was injured while operating a metal-cutting machine for Scioto Metals. His gloved hand, wrist, and forearm were drawn into in-running rollers and then lacerated by power-driven knives when he tried to reach a disengage control located several feet away. The Industrial Commission found that Scioto Metals violated Ohio Adm.Code 4121:1-5-05(D)(1), governing the accessibility of controls for disengaging power, and Ohio Adm.Code 4121:1-5-11(D)(10)(a), governing protection from nip points created by power-driven in-running rolls.

## PROCEDURAL HISTORY

After the Industrial Commission granted Reese's application for additional workers' compensation based on two specific safety requirement violations, Scioto Metals sought mandamus in the Franklin County Court of Appeals. The court of appeals denied the writ, concluding that some evidence supported the Commission's order and that the Commission had not abused its discretion. The Supreme Court of Ohio affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- State ex rel. Yancey v. Firestone Tire & Rubber Co., 77 Ohio St. 3d 367, 673 N.E.2d 1374 (1997)
- State ex rel. Athey v. Indus. Comm., 89 Ohio St. 3d 473, 475, 733 N.E.2d 589, 591 (2000)

#### OPINION

##### PER CURIAM.

Per Curiam. Scioto Metals, Inc. (“Scioto Metals”), appellant, sought a writ of mandamus to compel appellee Industrial Commission of Ohio (“commission”) to vacate its order granting appellee Grant E. Reese’s application alleging Scioto Metals’s violation of specific safety requirements (“VSSRs”).

The Court of Appeals for Franklin County denied the writ, finding that the commission’s order was based on evidence of record and therefore was not an abuse of discretion. On Scioto Metals’s appeal as of right, we affirm. Reese was injured in 1996 while operating a metal-cutting machine for Scioto Metals. His gloved left hand, wrist, and forearm were drawn into the machine by in-running rollers, and the rollers caught his hand and forearm.

When Reese attempted to reach the disengage control about four or five feet away, his limb was lacerated by power-driven knives designed to slice metal. Reese’s screams alerted a co-worker, who shut off the machine, but Reese was stuck for nearly thirty minutes while someone used a forklift to pry apart the arbors that housed the blades. Reese’s workers’ compensation claim was recognized as compensable for “open wound left wrist, complications; amputation of finger, left, complication (NOS [“not otherwise specified”]); open wound of finger, left, with tendon (NOS).” Reese moved for additional compensation, alleging that Scioto Metals had violated Ohio Adm.Code 4121:1-5-05(D)(1) (controls to disengage power supply must be within easy reach of the machine operator) and 4121:1-5-11(D)(10)(a) (means required to protect employee exposed to contact with nip points created by power driven in-running rolls), along with another specific safety requirement.

The commission found that Scioto Metals had committed these two identified VSSRs, and, as the court of appeals did before us, we find no abuse of discretion. Gibson & Robbins-Penniman and J. Miles Gibson, for appellant. Betty D. Montgomery, Attorney General, and Gerald H. Waterman, Assistant Attorney General, for appellee Industrial Commission. Agee, Clymer, Mitchell & Laret and Joffre S. Laret, for appellee Reese.

Where some evidence supports the commission’s order, it cannot be disturbed in mandamus as an abuse of the commission’s discretion. State ex rel. Yancey v. Firestone Tire & Rubber Co. (1997),

77 Ohio St.3d 367, 673 N.E.2d 1374. And contrary to Scioto Metals's two propositions of law, evidence in this record supports the commission's conclusions that it violated Ohio Adm.Code 4121:1-5-11(D)(10)(a) and 4121:1-5-05(D)(1), causing Reese's injuries.

Reese attested that his hand was initially caught between the arbors but not in the part holding the blades, and hospital records permit the commission's inference that Reese's left hand and wrist were crushed as a result. Reese also attested that his hand was pulled into and sliced by the bladed portion of the arbors when he attempted to reach for the on/off switch to disengage the machine.

This evidence, as well as the medical records documenting Reese's lacerations, is more than sufficient to justify the commission's two VSSR findings. The commission is the evaluator of evidentiary weight and credibility, and neither we nor the court of appeals can substitute our judgment for the commission's in making those determinations. *State ex rel. Athey v. Indus.*

*Comm.* (2000), 89 Ohio St.3d 473, 475, 733 N.E.2d 589, 591. The commission legitimately found Scioto Metals in violation of Ohio Adm.Code 4121:1-5-11(D)(10)(a) and 4121:1-5-05(D)(1), and the court of appeals thus properly denied a writ of mandamus.

The court of appeals' judgment is therefore affirmed. Judgment affirmed. Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg Stratton, JJ., concur.