

SUPREME COURT OF OHIO

State ex rel. Friendship Supported Living, Inc. v. Ohio Bur. of
Workers' Comp.

2023 Ohio 957 (Ohio 2023) · No. 2022-0142 · Decided March 28, 2023

SUMMARY

The Supreme Court of Ohio reviewed whether the Ohio Bureau of Workers’ Compensation abused its discretion by classifying Friendship Supported Living’s in-home direct-care workers as employees rather than independent contractors. The court held that the bureau’s order inadequately addressed relevant factors under the right-to-control test, including monitoring, freedom to work for others, routes traveled, and length of employment. It reversed the court of appeals and granted a limited writ directing the bureau to issue an amended, fact-specific order.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per curiam; Fischer, J.; Donnelly, J.; Stewart, J.; Brunner, J.; Kennedy, C.J.; DeWine, J.; Deters, J.
JURISDICTION	Ohio
DECIDED	March 28, 2023
DOCKET	2022-0142
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Ohio Bureau of Workers' Compensation appealed the Tenth District Court of Appeals' judgment granting Friendship Supported Living, Inc. a writ of mandamus and ordering the bureau to vacate its classification of Friendship's in-home direct-care workers as employees and return related premiums.
STANDARD OF REVIEW	In reviewing the bureau's decision in a mandamus action, the court determines whether the bureau abused its discretion by issuing an adequately explained order supported by some evidence in the record. The Supreme Court reviews the court of appeals' mandamus judgment as if the action had originally been filed in the Supreme Court.
PRECEDENTIAL VALUE	published and precedential

PARTIES

Ohio Bureau of Workers' Compensation v. Friendship Supported Living, Inc.

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QUESTIONS PRESENTED

1. Whether the bureau abused its discretion in classifying Friendship's in-home direct-care workers as employees rather than independent contractors under Ohio's right-to-control test.
2. Whether the bureau's order adequately explained its consideration of the relevant common-law factors and was supported by some evidence in the record.
3. What remedy was appropriate when the bureau failed to sufficiently account for relevant factors in its order.

HOLDINGS

1. The bureau abused its discretion because its order failed to sufficiently account for relevant factors bearing on the work relationship between Friendship and its direct-care workers, including the nature of monitoring, the workers' freedom to work for others, the routes traveled, and the length of employment.
2. The proper remedy was to reverse the court of appeals' judgment and grant a limited writ of mandamus ordering the bureau to issue an amended order that accounts for the relevant factors through briefly explained reasons and fact-specific statements.

KEY QUOTATIONS

“The key factual determination is who had the right to control the manner or means of doing the work.” (¶ 12)

“It is not enough for the bureau to perfunctorily say that something is so.” (¶ 23)

“meaningful review can be accomplished only if the commission prepares orders on a case-by-case basis which are fact-specific and which contain reasons explaining its decisions” (¶ 30)

FACTUAL BACKGROUND

Friendship provides in-home direct-care services to developmentally disabled consumers under individual service plans administered through the Ohio Department of Developmental Disabilities. Friendship classified its direct-care workers as independent contractors, while the bureau's 2017 premium audit classified them as employees for workers' compensation purposes. The record included evidence that workers were paid hourly and issued Forms 1099, could work for competitors, generally set their schedules, supplied their own insurance and

equipment, and were not supervised in the day-to-day manner of providing services, although Friendship assigned consumers, arranged coverage, and monitored compliance and quality.

PROCEDURAL HISTORY

The bureau's 2017 premium audit classified Friendship's in-home direct-care workers as employees rather than independent contractors. The bureau's adjudicating committee denied Friendship's protest, and the administrator's designee affirmed. The Tenth District granted a writ of mandamus, but the Supreme Court of Ohio reversed that judgment and granted a limited writ directing the bureau to issue an amended, fact-specific order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The bureau must issue an amended order that sufficiently accounts for the deficiencies identified by the Supreme Court, including the relevant right-to-control factors, with briefly explained reasons and fact-specific statements.

CASES CITED

- Friendship Supported Living, Inc. v. Dir., Ohio Dept. of Job & Family Servs., Franklin C.P. No. 15CVF-8721 (Mar. 7, 2016)
- State ex rel. Daily Servs., L.L.C. v. Morrison, 154 Ohio St.3d 498, 2018-Ohio-2151, 116 N.E.3d 112
- State ex rel. Craftsmen Basement Finishing Sys., Inc. v. Ryan, 121 Ohio St.3d 492, 2009-Ohio-1676, 905 N.E.2d 639
- State ex rel. Ugicom Ents., Inc. v. Morrison, 169 Ohio St.3d 244, 2022-Ohio-1689, 203 N.E.3d 683
- State ex rel. Digiacinto v. Indus. Comm., 159 Ohio St.3d 346, 2020-Ohio-707, 150 N.E.3d 933
- State ex rel. Armatas v. Plain Twp. Bd. of Trustees, 163 Ohio St.3d 304, 2021-Ohio-1176, 170 N.E.3d 19
- Bostic v. Connor, 37 Ohio St.3d 144, 524 N.E.2d 881 (1988)
- Gillum v. Indus. Comm., 141 Ohio St. 373, 48 N.E.2d 234 (1943)
- Walker v. Lahoski, 9th Dist. Summit No. 19293, 1999 WL 548978 (July 28, 1999)
- Northeast Ohio College of Massotherapy v. Burek, 144 Ohio App.3d 196, 759 N.E.2d 869 (7th Dist. 2001)
- State ex rel. Gassman v. Indus. Comm., 41 Ohio St.2d 64, 322 N.E.2d 660 (1975)
- State ex rel. Nicholson v. Copperweld Steel Co., 77 Ohio St.3d 193, 672 N.E.2d 657 (1996)
- State ex rel. Stephenson v. Indus. Comm., 31 Ohio St.3d 167, 509 N.E.2d 946 (1987)
- State ex rel. Noll v. Indus. Comm., 57 Ohio St.3d 203, 567 N.E.2d 245 (1991)
- State ex rel. Ochs v. Indus. Comm., 85 Ohio St.3d 674, 710 N.E.2d 1126 (1999)
- Marshall v. Aaron, 15 Ohio St.3d 48, 472 N.E.2d 335 (1984)
- Nationwide Mut. Fire Ins. Co. v. Guman Bros. Farm, 73 Ohio St.3d 107, 652 N.E.2d 684 (1995)
- Johnson v. Abdullah, 166 Ohio St.3d 427, 2021-Ohio-3304, 187 N.E.3d 463

- State v. Boles, 187 Ohio App.3d 345, 2010-Ohio-278, 932 N.E.2d 345 (2d Dist.)
- State ex rel. Mitchell v. Robbins & Myers, Inc., 6 Ohio St.3d 481, 453 N.E.2d 721 (1983)
- State ex rel. Berry v. Indus. Comm., 4 Ohio St.3d 193, 448 N.E.2d 134 (1983)

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