

COMMONWEALTH COURT OF PENNSYLVANIA

Mary Konieczny, Anthony J. Golembiewski, Christopher W. Humphrey, and Therese Thompson Miles v. Stephen A. Zappala, Jr.,
District Attorney of Allegheny County

No. 941 C.D. 2020 (Pa. Commw. Ct. June 7 2022) (Commonwealth Court of Pennsylvania 2022) · No. 941 C.D. 2020 · Decided June 7, 2022

SUMMARY

The Pennsylvania Commonwealth Court held that the Allegheny County District Attorney violated Pennsylvania Rule of Criminal Procedure 506 by refusing to review and investigate private criminal complaints and by failing to approve or disapprove them with written reasons. The court reversed the trial court’s dismissal of the appellants’ mandamus action and remanded for compliance with Rule 506. The court did not decide the parties’ standing or ripeness arguments.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Christine Fizzano Cannon; Ellen Ceisler; Stacy Wallace
JURISDICTION	Pennsylvania
DECIDED	June 7, 2022
DOCKET	941 C.D. 2020
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appellants appealed from the Allegheny County Court of Common Pleas order sustaining preliminary objections and dismissing their mandamus complaint with prejudice.
STANDARD OF REVIEW	Review of an order dismissing a mandamus complaint on preliminary objections is limited to determining whether the trial court committed an error of law or an abuse of discretion.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Mary Konieczny, Anthony J. Golembiewski, Christopher W. Humphrey, Therese Thompson Miles v. Stephen A. Zappala, Jr., District Attorney of Allegheny County

TOPICS

criminal procedure

remedies

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standard of review

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the District Attorney violated Pennsylvania Rule of Criminal Procedure 506 by refusing to accept, review, investigate, and approve or disapprove Appellants' properly submitted private criminal complaints.
2. Whether mandamus was an available remedy to compel the District Attorney to perform the mandatory duties imposed by Rule 506.
3. Whether Appellants were required to seek review under Rule 506(B)(2) before filing a mandamus action when the District Attorney provided no written reasons for denying or refusing to review the complaints.

HOLDINGS

1. When a citizen submits a private criminal complaint containing factual averments, the attorney for the Commonwealth must review and, when necessary, investigate the allegations, then either approve the complaint and transmit it to the issuing authority or disapprove it and state the reasons in writing on the complaint form before returning it to the complainant.
2. Mandamus was proper to compel the District Attorney to perform the mandatory duties imposed by Rule 506, including reviewing and investigating the complaints and approving or disapproving them with written reasons.
3. The pre-written press release did not constitute a compliant denial under Rule 506 and did not provide a rationale that Appellants were required to appeal under Rule 506(B)(2).

KEY QUOTATIONS

“Mandamus is an extraordinary writ which will only issue to compel performance of a ministerial act or mandatory duty where there exists a clear legal right in the plaintiff, a corresponding duty in the defendant, and want of any other adequate and appropriate remedy.” (3)

“Thus, under Rule 506, upon the receipt of a private criminal complaint submitted by a citizen that contains factual averments, the attorney for the Commonwealth is obligated to review, investigate, and either approve or deny the complaint, and, when denying a complaint, write the reasons for the denial on the private criminal complaint form before returning it to the complainant.” (5-6)

“Appellants cannot be faulted for failing to seek review of a reason that was not provided.” (8)

FACTUAL BACKGROUND

On April 9, 2019, Pittsburgh City Council passed firearm and firearm-accessory ordinances that Mayor William Peduto signed. Three days later, Appellants presented private criminal complaints against the mayor and members of City Council, alleging that enactment of the ordinances constituted official oppression under 18

Pa.C.S. § 5301. The District Attorney's office did not accept, review, or investigate the complaints, but instead gave Appellants a pre-written press release announcing that the office would not review matters connected with alleged violations of the ordinances.

PROCEDURAL HISTORY

Appellants submitted private criminal complaints to the Allegheny County District Attorney alleging official oppression in connection with Pittsburgh firearm ordinances. The District Attorney did not review or investigate the complaints and instead provided a previously drafted press release stating that his office would not review matters connected with the ordinances. Appellants filed a mandamus complaint seeking enforcement of the District Attorney's duties under Pennsylvania Rule of Criminal Procedure 506. The trial court sustained preliminary objections and dismissed the complaint with prejudice. The Commonwealth Court reversed and remanded for further proceedings and a further remand to the District Attorney's office.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must further remand the matter to the Office of the District Attorney of Allegheny County, directing the District Attorney to review, consider, and approve or disapprove the previously filed private criminal complaints without unreasonable delay, in compliance with Rule 506. Jurisdiction was relinquished.

CASES CITED

- Konieczny v. Zappala (Pa. Super., No. 1762 WDA 2019, filed Aug. 19, 2020)
- Dotterer v. School District of Allentown, 92 A.3d 875, 880-81 (Pa. Cmwlth. 2014)
- Seeton v. Adams, 50 A.3d 268, 274 (Pa. Cmwlth. 2012)
- In re Ullman, 995 A.2d 1207, 1213 (Pa. Super. 2010)
- Commonwealth v. Muroski, 506 A.2d 1312, 1317 (Pa. Super. 1986) (en banc)
- In re Private Complaint of Owens Against Coker, 810 A.2d 172, 175-76 (Pa. Super. 2002)
- In re: Private Complaint of Adams, 764 A.2d 577, 579 (Pa. Super. 2000)
- In re Priv. Criminal Complaints of Rafferty, 969 A.2d 578 (Pa. Super. 2009)
- In re Brown (Pa. Super., No. 1997 MDA 2014, filed Aug. 21, 2015)