

SUPREME COURT OF OHIO

State ex rel. Bell v. Brooks

130 Ohio St. 3d 87, 2011-Ohio-4897 · No. 2010-1836 · Decided September 28, 2011

SUMMARY

The Supreme Court of Ohio held that County Risk Sharing Authority, Inc. (CORSA), a private joint self-insurance pool, was not the functional equivalent of a public office subject to Ohio's Public Records Act. Accordingly, the court affirmed denial of the mandamus claim concerning CORSA board-meeting minutes. The court reversed and remanded claims concerning CORSA's financial and compensation records because Ohio Revised Code 149.431 may require disclosure of such records independently of CORSA's status under Revised Code 149.43.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; O'Connor, C.J.; Pfeifer; Lundberg Stratton; O'Donnell; Lanzinger; Cupp; McGee Brown
JURISDICTION	Ohio
DECIDED	September 28, 2011
DOCKET	2010-1836
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Bell appealed as of right from the Franklin County Court of Appeals' denial of three writs of mandamus seeking records from the County Risk Sharing Authority, Inc. The Supreme Court of Ohio affirmed in part, reversed in part, and remanded.
STANDARD OF REVIEW	The court reviewed the court of appeals' judgment in the mandamus proceedings and applied the clear-and-convincing-evidence standard to Bell's claim that CORSA was the functional equivalent of a public office.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Ohio; precedential.
PARTIES	Greg A. Bell, State ex rel. Bell v. David W. Brooks, Brooks

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QUESTIONS PRESENTED

1. Whether CORSA was the functional equivalent of a public office subject to Ohio's Public Records Act, R.C. 149.43.
2. Whether the determination that CORSA was not the functional equivalent of a public office disposed of Bell's claims for financial and compensation records under R.C. 149.431.
3. Whether Bell waived his claims for financial and compensation records by proceeding below on the functional-equivalency issue.

HOLDINGS

1. CORSA was not the functional equivalent of a public office for purposes of the Public Records Act because Bell did not establish by clear and convincing evidence that the functional-equivalency factors favored public-office status.
2. The determination that CORSA was not the functional equivalent of a public office did not dispose of Bell's claims for financial and compensation records because R.C. 149.431 independently requires specified financial and compensation records of qualifying nonprofit corporations with government-service contracts to be treated as public records.
3. Bell did not waive his claims under R.C. 149.431 merely because the magistrate limited the proceedings to the functional-equivalency issue.

KEY QUOTATIONS

“Private entities are not subject to the Public Records Act absent a showing by clear and convincing evidence that the private entity is the functional equivalent of a public office.” (¶ 18-20)

“The Public Records Act was not designed to allow public scrutiny of ‘all entities that receive funds that at one time were controlled by the government.’” (¶ 27)

“Waiver is the intentional relinquishment or abandonment of a known right” (¶ 39)

FACTUAL BACKGROUND

County Risk Sharing Authority, Inc. (CORSA) is a private, nonprofit corporation created by the County Commissioners Association of Ohio and operated as a joint self-insurance pool for Ohio counties and county facilities. Its members contributed more than 88 percent of its income, but CORSA's day-to-day operations were controlled by an independent board rather than by a governmental entity. Bell requested CORSA's financial records relating to Madison County contracts, board-meeting minutes, and executive and administrative compensation records; CORSA produced some records but refused the remainder on the ground that it was a private corporation not subject to the Public Records Act.

PROCEDURAL HISTORY

Bell filed three mandamus complaints in the Franklin County Court of Appeals seeking CORSA records under R.C. 149.43 and 149.431. The cases were consolidated, and the court limited the evidentiary submissions and briefing to whether CORSA was the functional equivalent of a public office. The magistrate recommended denying the writs, the court of appeals adopted that recommendation, and the Supreme Court affirmed as to board-meeting minutes but reversed and remanded as to financial and compensation records.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The court of appeals was instructed to conduct further proceedings on Bell's claims for CORSA's financial and compensation records, including permitting the submission of evidence and briefs addressing those remaining claims under R.C. 149.43 and 149.431. The denial of the writ concerning CORSA's board-meeting minutes was affirmed.

CASES CITED

- State ex rel. Physicians Commt. for Responsible Medicine v. Ohio State Univ. Bd. of Trustees, 108 Ohio St. 3d 288, 2006-Ohio-903, 843 N.E.2d 174
- State ex rel. Fostoria Daily Rev. Co. v. Fostoria Hosp. Assn., 40 Ohio St. 3d 10, 531 N.E.2d 313 (1988)
- State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. of Commrs., 128 Ohio St. 3d 256, 2011-Ohio-625, 943 N.E.2d 553
- State ex rel. Oriana House, Inc. v. Montgomery, 110 Ohio St. 3d 456, 2006-Ohio-4854, 854 N.E.2d 193
- State ex rel. Repository v. Nova Behavioral Health, Inc., 112 Ohio St. 3d 338, 2006-Ohio-6713, 859 N.E.2d 936
- State v. Pasqualone, 121 Ohio St. 3d 186, 2009-Ohio-315, 903 N.E.2d 270