

SUPREME COURT OF OHIO

State ex rel. Geauga Cty. Bd. of Commrs. v. Milligan

100 Ohio St. 3d 366, 2003-Ohio-6608 (2003) · No. 2003-1350 · Decided December 31, 2003

SUMMARY

The Ohio Supreme Court held that a county board of commissioners and its individual commissioners were entitled as a matter of right to a stay pending appeal under Ohio Civ.R. 62(C). The trial judge therefore lacked jurisdiction to lift the stay, enforce the underlying mandamus judgment, or conduct contempt proceedings while the appeal was pending. The court granted a writ of mandamus compelling the stay and did not reach the alternative prohibition claim.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per curiam; Moyer, C.J.; Resnick, J.; F.E. Sweeney, J.; Lundberg Stratton, J.; O'Connor, J.; O'Donnell, J.; Pfeifer, J.
JURISDICTION	Ohio
DECIDED	December 31, 2003
DOCKET	2003-1350
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Relators sought extraordinary writs of mandamus and prohibition from the Supreme Court of Ohio to prevent a common pleas judge from enforcing or conducting contempt proceedings concerning a judgment while the relators' appeal was pending.
STANDARD OF REVIEW	Extraordinary relief is available when a lower court patently and unambiguously lacks jurisdiction to proceed. The court applied the legal requirements governing stays pending appeal under Civ.R. 62.
PRECEDENTIAL VALUE	Published, precedential Ohio Supreme Court opinion
PARTIES	Gauga County Board of Commissioners, Individual Gauga County commissioners v. John R. Milligan, Judge

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QUESTIONS PRESENTED

1. Whether a governmental appellant is entitled as a matter of right to a stay of a civil judgment pending appeal under Civ.R. 62(C) without posting a supersedeas bond.
2. Whether the trial court had jurisdiction to lift an unconditional stay pending appeal or conduct contempt proceedings to enforce the stayed judgment.
3. Whether the trial court could impose an unstated condition requiring continued funding of the sheriff at a specified level as a substitute for a supersedeas bond.

HOLDINGS

1. Under Civ.R. 62(B) and (C), the county board and commissioners were entitled as a matter of right to a stay of the November 14, 2002 judgment pending appeal, without posting a supersedeas bond or other security.
2. The trial court patently and unambiguously lacked jurisdiction to lift the stay or conduct contempt proceedings concerning enforcement of the stayed judgment.
3. The trial court could not rely on an unstated condition requiring the relators to maintain the sheriff's funding at fiscal year 2002 levels, nor could it effectively require such funding as security for the judgment.

KEY QUOTATIONS

"A trial court "lacks jurisdiction to execute a judgment or [conduct] contempt proceedings regarding the judgment if there is a stay of the judgment pending appeal." (¶ 14)

"Pursuant to [Civ.R. 62], defendants-appellants are entitled to a stay of the judgment as a matter of right." (¶ 16)

"A court of record speaks only through its journal entries." (¶ 20)

FACTUAL BACKGROUND

The Geauga County sheriff sought a writ of mandamus compelling the county board and commissioners to appropriate funds for his office for fiscal years 2002 and 2003. The common pleas court granted the writ, and the trial judge later issued an unconditional stay pending appeal. After the board adopted a 2003 budget that reduced the sheriff's funding by approximately 1.43 percent from the prior year's level, the judge lifted the stay and scheduled contempt proceedings. The county officials sought relief in the Supreme Court of Ohio to preserve the stay while their appeal was pending.

PROCEDURAL HISTORY

The Geauga County Court of Common Pleas granted the sheriff a writ of mandamus compelling the county board and commissioners to appropriate most of the requested funds for fiscal years 2002 and 2003. The trial

judge initially stayed the judgment pending appeal, later lifted the stay after finding that the sheriff was funded at a lower level, and set a contempt hearing. The court of appeals denied the relators' motion for a stay and ordered immediate compliance. The Supreme Court of Ohio granted expedited alternative writs and ultimately granted mandamus, declining to reach the alternative prohibition claim.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The respondent was compelled to stay the November 14, 2002 judgment pending appeal. The court did not address the alternative claim for a writ of prohibition.

CASES CITED

- State ex rel. Mayer v. Henson, 97 Ohio St. 3d 276, 2002-Ohio-6323, 779 N.E.2d 223
- State ex rel. State Fire Marshal v. Curl, 87 Ohio St. 3d 568, 722 N.E.2d 73 (2000)
- State ex rel. Ocasek v. Riley, 54 Ohio St. 2d 488, 377 N.E.2d 792 (1978)
- State ex rel. Wilkinson v. Reed, 99 Ohio St. 3d 106, 2003-Ohio-2506, 789 N.E.2d 203
- State ex rel. Marshall v. Glavas, 98 Ohio St. 3d 297, 2003-Ohio-857, 784 N.E.2d 97
- Mahoney v. Berea, 33 Ohio App. 3d 94, 514 N.E.2d 889 (1986)

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