

SUPREME COURT OF OHIO

State ex rel. Johnson v. Indus. Comm.

122 Ohio St. 3d 289, 2009-Ohio-3453 (2009) · No. 2008-1089 · Decided July 21, 2009

SUMMARY

The Ohio Supreme Court held that Ohio Adm.Code 4123:1-3-10, governing specific safety requirements for scaffolding, applies to all scaffolds regardless of their stage of completion. The court reversed and remanded for the Industrial Commission to determine, in a fact-specific inquiry, whether the employer complied with or was in the process of complying with the applicable requirements.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Pfeifer, J.; Lundberg Stratton, J.; O'Connor, J.; Lanzinger, J.; Cupp, J.; O'Donnell, J.
JURISDICTION	Ohio
DECIDED	July 21, 2009
DOCKET	2008-1089
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Johnson appealed as of right from the Franklin County Court of Appeals' denial of his complaint for a writ of mandamus seeking to compel the Industrial Commission to find violations of specific safety requirements in connection with his workers' compensation claim.
STANDARD OF REVIEW	Mandamus review of the Industrial Commission's application of specific safety requirements; the commission's order must provide an adequate explanation for its determination.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Ohio
PARTIES	John W. Johnson v. Industrial Commission of Ohio, Buckner & Sons Masonry, Inc.

TOPICS

- workers compensation
- administrative law
- statutory interpretation
- construction law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Ohio Adm.Code 4123:1-3-10's specific safety requirements apply to scaffolds that are still under construction.
2. Whether the Industrial Commission adequately determined the applicability of those safety requirements by categorically excluding incomplete scaffolds.

HOLDINGS

1. Ohio Adm.Code 4123:1-3-10 applies to all scaffolds, regardless of their stage of construction.
2. Although the safety requirements apply to all scaffolds, the commission must determine whether the employer complied, or was in the process of complying, with them in light of the scaffold's stage of construction and the reasonableness and practicality of compliance at that stage.

KEY QUOTATIONS

“The answer is to apply the code and then determine whether the employer either complied, or was in the process of complying, with the safety provisions at issue, taking into account the stage of construction and the reasonableness and practicality of being able to comply with the safety provisions at that stage of installing the scaffolding, which is a fact-specific determination.” (122 Ohio St. 3d at 292; ¶ 16)

“We accordingly find that Ohio Adm.Code 4123:1-3-10 applies to all scaffolds, regardless of the stage of construction.” (122 Ohio St. 3d at 292; ¶ 17)

FACTUAL BACKGROUND

Johnson was installing safety rails on a scaffold that was still being erected. Workers were enclosing part of the scaffold in plastic when a gust of wind tipped it, throwing Johnson between six and sixteen feet to the ground. After his workers' compensation claim was allowed, Johnson alleged violations of Ohio Adm.Code 4123:1-3-10(C)(1), (C)(11), and (F)(1), concerning scaffold bracing and anchorage. The Industrial Commission found the provisions inapplicable because the scaffold was incomplete.

PROCEDURAL HISTORY

After Johnson's workers' compensation claim was allowed, he alleged that his employer violated several specific safety requirements governing scaffold bracing and anchorage. The Industrial Commission found no violations because it concluded that the requirements did not apply to a scaffold still under construction. Johnson sought a writ of mandamus in the Franklin County Court of Appeals; the court adopted its magistrate's recommendation and denied the writ. The Supreme Court of Ohio reversed and remanded the matter to the commission.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was returned to the Industrial Commission to determine whether the employer satisfied the specific safety requirements at issue, considering the stage of scaffold construction and the reasonableness and practicality of compliance at that stage.

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