

SUPREME COURT OF OHIO

The State ex rel. Bailey et al. v. Ohio Parole Board

State ex rel. Bailey v. Parole Bd. (Slip Opinions), 2017 Ohio 9202 (Ohio 2017) · No. 2017-0090 · Decided December 27, 2017

SUMMARY

The Supreme Court of Ohio affirmed dismissal of a mandamus action brought by inmates alleging that the Ohio Parole Board had an unwritten policy of denying meaningful parole consideration to old-law offenders. The court held that the allegations concerned the board’s discretionary weighing of offense seriousness and rehabilitation, rather than the use of incorrect offense information or materially inaccurate facts. The court also rejected the inmates’ claims seeking administrative action against board members, finding no applicable private right of action or clear legal duty.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Maureen O'Connor, Chief Justice; William M. O'Donnell, Justice; Judith L. French, Justice; Terrence O'Neill, Justice; Patrick F. Fischer, Justice; Pat DeWine, Justice
JURISDICTION	Ohio
DECIDED	December 27, 2017
DOCKET	2017-0090
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Tenth District Court of Appeals' dismissal of an original mandamus action for failure to state a claim.
STANDARD OF REVIEW	The court reviewed the dismissal of the complaint for failure to state a claim and whether the inmates established the elements required for mandamus.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Ohio; precedential.
PARTIES	Michael Bailey, Steven Schmitz, William E. Morehouse, Benjamin D. Hudach, Jeffrey S. Holland v. Ohio Parole Board

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QUESTIONS PRESENTED

1. Whether the inmates stated a claim for mandamus by alleging that the Ohio Parole Board had an unwritten policy that denied meaningful parole consideration to old-law offenders.
2. Whether the inmates could obtain a declaratory judgment from the court of appeals in the mandamus action.
3. Whether Ohio criminal statutes concerning perjury, falsification, and dereliction of duty created private causes of action enforceable by the inmates.
4. Whether the Ohio Department of Rehabilitation and Correction director had a clear legal duty to take administrative action against Ohio Parole Board members.
5. Whether R.C. 124.34(A) created an enforceable mandamus duty to remove state employees accused of misfeasance.

HOLDINGS

1. The inmates failed to state a mandamus claim because their allegations did not establish a clear legal right to new parole hearings or a clear legal duty on the part of the parole board to provide them.
2. An inmate has no constitutional or Ohio-law right or entitlement to release on parole before expiration of a valid sentence.
3. The inmates could not obtain a declaration that the parole board members were in violation of R.C. 124.34(A) because the court of appeals does not have original jurisdiction to grant declaratory judgments.
4. The inmates could not obtain sanctions or other relief based on alleged violations of Ohio criminal statutes because those statutes did not create private causes of action.
5. The inmates failed to state a mandamus claim against the ODRC director because he was not the appointing authority responsible for the parole-authority employees and therefore had no clear legal duty to take administrative action.

KEY QUOTATIONS

“To be entitled to a writ of mandamus, a party must establish, by clear and convincing evidence, (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of the respondent to provide it, and (3) the lack of an adequate remedy in the ordinary course of the law.” (§ 8)

“But that weighing process is precisely the point at which the parole board exercises its discretion.” (§ 12)

FACTUAL BACKGROUND

The five appellants were incarcerated 'old-law' offenders sentenced to indeterminate prison terms for crimes committed before Ohio's July 1, 1996 sentencing reforms. They alleged that the Ohio Parole Board had an unwritten policy of denying parole to old-law offenders and therefore did not meaningfully consider their parole applications. They sought new parole hearings, declarations concerning the board members' alleged misconduct, administrative action against the board members, and other relief.

PROCEDURAL HISTORY

The inmates filed an original action in the Tenth District Court of Appeals seeking a writ of mandamus against the Ohio Parole Board and related relief. A magistrate recommended dismissal, the court of appeals overruled the inmates' objections and adopted the recommendation, and the inmates appealed to the Supreme Court of Ohio. The Supreme Court affirmed the dismissal.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Cleveland Right to Life v. State Controlling Bd., 138 Ohio St. 3d 57, 2013-Ohio-5632, 3 N.E.3d 185, ¶ 2
- Greenholtz v. Inmates of the Nebraska Penal & Corr. Complex, 442 U.S. 1, 7, 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979)
- State ex rel. Seikbert v. Wilkinson, 69 Ohio St. 3d 489, 490, 633 N.E.2d 1128 (1994)
- Layne v. Ohio Adult Parole Auth., 97 Ohio St. 3d 456, 2002-Ohio-6719, 780 N.E.2d 548, ¶¶ 27-28
- State ex rel. Keith v. Ohio Adult Parole Auth., 141 Ohio St. 3d 375, 2014-Ohio-4270, 24 N.E.3d 1132, ¶ 23
- State ex rel. Dynamic Industries, Inc. v. Cincinnati, 147 Ohio St. 3d 422, 2016-Ohio-7663, 66 N.E.3d 734, ¶ 9
- George v. State, 10th Dist. Franklin Nos. 10AP-4 and 10AP-97, 2010-Ohio-5262, ¶ 32
- Boddie v. Landers, 10th Dist. Franklin No. 15AP-962, 2016-Ohio-1410, ¶ 17
- White v. Stafford, 8th Dist. Cuyahoga No. 61838, 1993 WL 7926, *2
- State ex rel. Talwar v. State Med. Bd., 104 Ohio St. 3d 290, 2004-Ohio-6410, 819 N.E.2d 654, ¶ 12

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