

**COURT OF APPEALS OF OHIO, FIRST APPELLATE DISTRICT, HAMILTON
COUNTY**

State ex rel. Lanter v. Cincinnati

2020 Ohio 4973 (Ohio Ct. App. 2020) · No. C-190708; C-190720 · Decided October 21, 2020

SUMMARY

The First District Court of Appeals of Ohio held that the Cincinnati Citizen Complaint Authority's proceedings were not quasi-judicial because the governing code did not require a hearing or an opportunity to present evidence. The court therefore vacated the common pleas court's administrative-review judgment for lack of subject matter jurisdiction, while affirming dismissal of Sergeant Lanter's mandamus petition because he could not establish a clear legal duty to correct the report.

CASE DETAILS

COURT	Court of Appeals of Ohio, First Appellate District, Hamilton County
WRITING FOR THE COURT	Bergeron; Myers; Crouse
JURISDICTION	Ohio
DECIDED	October 21, 2020
DOCKET	C-190708; C-190720
DISPOSITION	other
PROCEDURAL POSTURE	The City appealed the common pleas court's administrative-review judgment overturning the Citizen Complaint Authority's report. Lanter cross-appealed the dismissal of his mandamus petition.
STANDARD OF REVIEW	Subject matter jurisdiction is a threshold legal issue; dismissal of a mandamus petition is reviewed de novo.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	City of Cincinnati, Ohio, Harry Black, Kim Neal, Citizen Complaint Authority v. State of Ohio, ex rel. Timothy Lanter

TOPICS

judicial review of agency action

subject matter jurisdiction

administrative law

appellate procedure

remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the common pleas court had subject matter jurisdiction under Ohio Revised Code section 2506.01 to review the CCA's report.
2. Whether the CCA proceedings were quasi-judicial proceedings subject to administrative review.
3. Whether Lanter was entitled to mandamus relief requiring correction of alleged inaccuracies in the CCA report.

HOLDINGS

1. The common pleas court lacked subject matter jurisdiction because CCA proceedings are not quasi-judicial proceedings subject to review under section 2506.01.
2. Mandamus was properly dismissed because Lanter failed to establish a clear legal duty requiring the CCA to modify its report.

KEY QUOTATIONS

“whether a proceeding is a quasi-judicial one from which an R.C. 2506.01 appeal may be taken depends upon what the law requires the agency to do, not what the agency actually does.” (§ 11)

“To obtain a writ of mandamus, a petitioner must show that: “(1) he has a clear legal right to the relief requested, (2) [the official] is under a clear legal duty to perform the requested acts, and (3) [the petitioner] has no plain and adequate remedy in the ordinary course of the law.”” (§ 18)

FACTUAL BACKGROUND

The Cincinnati Citizen Complaint Authority investigated a discrimination complaint by Daryl Spivey against Cincinnati police sergeant Timothy Lanter. Spivey claimed Lanter called him “boy,” while Lanter claimed he said “buddy”; the CCA sustained the charge based largely on witness-credibility assessments. The police department conducted a separate investigation, rejected the CCA's conclusions, and imposed no discipline, while the CCA made only a training-related recommendation.

PROCEDURAL HISTORY

Lanter sought review under Ohio Revised Code section 2506.01 of a Citizen Complaint Authority report sustaining a discrimination charge, and also sought mandamus relief to require correction of alleged inaccuracies in the report. The Hamilton County Court of Common Pleas overturned the CCA report but dismissed the mandamus petition because the administrative appeal was considered an adequate remedy. The Court of Appeals vacated the administrative-review judgment for lack of subject matter jurisdiction, remanded for dismissal of that claim, and affirmed dismissal of the mandamus petition on the ground that no clear legal duty to modify the report existed.

DISPOSITION

REMAND INSTRUCTIONS

Vacate the trial court's judgment overruling the CCA's report and remand for entry of a dismissal for want of subject matter jurisdiction. The trial court's dismissal of Lanter's mandamus petition is affirmed.

CASES CITED

- State v. City of Cincinnati Citizen Complaint Auth., 2019-Ohio-5349, 139 N.E.3d 947 (1st Dist.)
- State ex rel. Jones v. Suster, 84 Ohio St. 3d 70, 701 N.E.2d 1002 (1998)
- Bank of Am., N.A. v. Kuchta, 141 Ohio St. 3d 75, 2014-Ohio-4275, 21 N.E.3d 1040
- WBCMT 2007-C33 Office 7870, LLC v. Breakwater Equity Partners, LLC, 2019-Ohio-3935, 133 N.E.3d 607 (1st Dist.)
- Pratts v. Hurley, 102 Ohio St. 3d 81, 2004-Ohio-1980, 806 N.E.2d 992
- Patton v. Diemer, 35 Ohio St. 3d 68, 518 N.E.2d 941 (1988)
- M.J. Kelley Co. v. City of Cleveland, 32 Ohio St. 2d 150, 290 N.E.2d 562 (1972)
- Zangerle v. Evatt, 139 Ohio St. 563, 41 N.E.2d 369 (1942)
- State ex rel. Youngstown v. Mahoning Cty. Bd. of Elections, 72 Ohio St. 3d 69, 647 N.E.2d 769 (1995)
- State ex rel. Hensley v. Nowak, 52 Ohio St. 3d 98, 556 N.E.2d 171 (1990)
- Chicago, M. & St. P. Ry. Co. v. State of Minn. ex rel. R.R. & Warehouse Comm., 134 U.S. 418, 10 S. Ct. 462, 33 L. Ed. 970 (1890)
- State ex rel. Mun. Constr. Equip. Operators' Labor Council v. Cleveland, 141 Ohio St. 3d 113, 2014-Ohio-4364, 22 N.E.3d 1040
- Nuspl v. Akron, 61 Ohio St. 3d 511, 575 N.E.2d 447 (1991)
- State ex rel. Manley v. Walsh, 142 Ohio St. 3d 384, 2014-Ohio-4563, 31 N.E.3d 608
- State ex rel. Taylor v. Glasser, 50 Ohio St. 2d 165, 364 N.E.2d 1 (1977)
- State ex rel. Daniels v. Russo, 156 Ohio St. 3d 143, 2018-Ohio-5194, 123 N.E.3d 1011
- State ex rel. Felson v. McHenry, 146 Ohio App. 3d 542, 2001-Ohio-4265, 767 N.E.2d 298 (1st Dist.)
- State ex rel. Karmasu v. Tate, 83 Ohio App. 3d 199, 614 N.E.2d 827 (4th Dist. 1992)
- State ex rel. Libby-Owens-Ford Glass Co. v. Indus. Comm., 162 Ohio St. 302, 123 N.E.2d 23 (1954)
- State ex rel. Auglaize Mercer Community Action Comm., Inc. v. Ohio Civ. Rights Comm., 73 Ohio St. 3d 723, 654 N.E.2d 1250 (1995)
- State v. Indus. Comm. of Ohio, 10th Dist. Franklin No. 79AP-257, 1979 WL 209565
- State ex rel. Smith v. McDonnell, 8th Dist. Cuyahoga No. 95786, 2010-Ohio-6035