

SUPREME COURT OF OHIO

State ex rel. East Cleveland Fire Fighters' Ass'n, Local 500 v. Jenkins

96 Ohio St. 3d 68 (Ohio 2002) · Decided July 24, 2002

SUMMARY

The Ohio Supreme Court affirmed the denial of a quo warranto writ sought by the East Cleveland Fire Fighters’ Association to remove Bobby Jenkins from the office of fire chief. The court held that the association lacked standing because it did not claim title to the office and further held that the action was barred by the three-year statute of limitations. The court also rejected or found waived the association’s alternative standing arguments.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Douglas, J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Cook, J.; Lundberg Stratton, J.
JURISDICTION	Ohio
DECIDED	July 24, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	The association appealed as of right from a Court of Appeals for Cuyahoga County judgment granting summary judgment to Jenkins and denying the association's petition for a writ of quo warranto.
STANDARD OF REVIEW	The Supreme Court reviewed the court of appeals' judgment in the association's appeal as of right; the underlying judgment was based on summary judgment.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	East Cleveland Fire Fighters' Association, Local 500, International Association of Fire Fighters v. Bobby Jenkins

TOPICS

- standing
- statute of limitations
- summary judgment
- affirmative defenses
- civil procedure

PRACTICE AREAS

- Civil procedure
- Remedies
- Municipal law
- Public employment

QUESTIONS PRESENTED

1. Whether the firefighters' association had standing under Ohio's quo warranto statutes to seek Jenkins's ouster from the office of fire chief.
2. Whether the association could rely on a general public-policy or federal standing theory to establish quo warranto standing despite the statutory requirements.
3. Whether the quo warranto action was barred by Ohio's three-year statute of limitations.

HOLDINGS

1. A private association or individual may bring a quo warranto action only if it personally claims title to the public office at issue; because the association could not hold and did not claim title to the office of fire chief, it lacked standing.
2. General federal standing principles and a judicially created public-policy exception could not override Ohio's statutory limitations on who may bring a quo warranto action.
3. The action was barred by Ohio Revised Code section 2733.35 because it was not brought within three years after the alleged right to hold the office arose.

KEY QUOTATIONS

“an action in quo warranto may be brought by an individual as a private citizen only when he personally is claiming title to a public office.” (at 69)

“Judicial policy preferences may not be used to override valid legislative enactments, for the General Assembly should be the final arbiter of public policy.” (at 70)

“No action in quo warranto shall be brought against an officer to oust him from his office, unless it is brought within three years after the cause of such ouster, or the right to hold the office, arose.” (at 70)

FACTUAL BACKGROUND

Bobby Jenkins, a captain and later deputy chief in the East Cleveland Fire Department, was appointed acting fire chief and received a waiver of the one-year deputy-chief eligibility requirement before taking the promotional examination. Other potential candidates withdrew, and Jenkins was the only person to take the examination; he was then certified and promoted to fire chief on December 29, 1997. The firefighters' association challenged his eligibility and sought his ouster and repayment of the salary differential through quo warranto, but it did not claim title to the office itself.

PROCEDURAL HISTORY

The association initially sought declaratory and mandamus relief challenging Jenkins's eligibility and promotion to fire chief. The court of common pleas entered judgment for the commission and mayor; the court of appeals reversed in part on declaratory relief but held that quo warranto, rather than mandamus, was the proper method to challenge Jenkins's title. The association then filed a quo warranto action in the court of appeals, which granted summary judgment to Jenkins on standing grounds. The Supreme Court of Ohio affirmed, additionally holding that the action was barred by the statute of limitations.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Huron Cty. Prosecutor v. Westerhold, 72 Ohio St. 3d 392, 394, 650 N.E.2d 463 (1995)
- State ex rel. Coyne v. Todia, 45 Ohio St. 3d 232, 237-38, 543 N.E.2d 1271 (1989)
- State ex rel. Annable v. Stokes, 24 Ohio St. 2d 32, 32-33, 262 N.E.2d 863 (1970)
- State ex rel. Paluf v. Feneli, 69 Ohio St. 3d 138, 145, 630 N.E.2d 708 (1994)
- Reisig v. Camarato, 111 Ohio App. 3d 479, 483, 676 N.E.2d 594 (1996)
- State ex rel. Freeman v. Hayes, 69 Ohio St. 2d 344, 345, 432 N.E.2d 199 (1982)
- Sierra Club v. Morton, 405 U.S. 727, 732, 92 S. Ct. 1361, 31 L. Ed. 2d 636 (1972)
- Baker v. Carr, 369 U.S. 186, 204, 82 S. Ct. 691, 7 L. Ed. 2d 663 (1962)
- Flast v. Cohen, 392 U.S. 83, 101, 88 S. Ct. 1942, 20 L. Ed. 2d 947 (1968)
- State ex rel. Spencer v. E. Liverpool Planning Comm'n, 85 Ohio St. 3d 678, 680, 710 N.E.2d 1129 (1999)
- State ex rel. Porter v. Cleveland Dep't of Pub. Safety, 84 Ohio St. 3d 258, 259, 703 N.E.2d 308 (1998)
- In re Wieland, 89 Ohio St. 3d 535, 538, 733 N.E.2d 1127 (2000)
- State v. Smorgala, 50 Ohio St. 3d 222, 223, 553 N.E.2d 672 (1990)
- State ex rel. Wilmot v. Buckley, 60 Ohio St. 273, 54 N.E. 272 (1899)
- Harris v. Liston, 86 Ohio St. 3d 203, 205, 714 N.E.2d 377 (1999)
- E. Cleveland Firefighters, Local 500 v. E. Cleveland Civ. Serv. Comm'n, Cuyahoga App. No. 77367, 2000 WL 1876394 (Ohio Ct. App. Dec. 19, 2000)