

COMMONWEALTH COURT OF PENNSYLVANIA

Joseph B. O’Neill, Jr. v. Pennsylvania Fish and Boat Commission

O’Neill v. Pennsylvania Fish and Boat Commission · No. 550 M.D. 2024 · Decided October 10, 2025

SUMMARY

The Pennsylvania Commonwealth Court dismissed with prejudice Joseph B. O’Neill, Jr.’s amended petition for review against the Pennsylvania Fish and Boat Commission. The court held that the Commission’s refusal to accept a proposed salary regulation was not an appealable adjudication or final order, although the court had original jurisdiction over the declaratory judgment and mandamus claims. The court further concluded that O’Neill lacked standing and failed to state claims under the Sunshine Act or the Pennsylvania Constitution.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Christine Fizzano Cannon; Anne E. Covey; Bonnie Brigance Leadbetter, Senior Judge
JURISDICTION	Commonwealth Court of Pennsylvania
DECIDED	October 10, 2025
DOCKET	550 M.D. 2024
DISPOSITION	dismissed
PROCEDURAL POSTURE	O’Neill filed an amended petition for review invoking the Commonwealth Court’s original and appellate jurisdiction. The Commission filed preliminary objections to the original-jurisdiction claims and an application to quash the appellate-jurisdiction claims. The court sustained the objections in part, overruled them in part, granted the application to quash, and dismissed the amended petition with prejudice.
STANDARD OF REVIEW	On preliminary objections in the nature of a demurrer, the court accepts well-pleaded material facts and reasonable inferences as true but need not accept conclusions of law or unwarranted inferences. The court considered subject-matter jurisdiction and whether the amended petition stated legally cognizable claims.
PRECEDENTIAL VALUE	Published Pennsylvania Commonwealth Court opinion; precedential.

PARTIES

Joseph B. O'Neill, Jr., Petitioner v. Pennsylvania Fish and Boat Commission, Respondent

TOPICS

appellate jurisdiction

judicial review of agency action

rulemaking

administrative law

appellate procedure

PRACTICE AREAS

administrative law

appellate procedure

constitutional law

remedies

QUESTIONS PRESENTED

1. Whether the Commission's failure to accept O'Neill's proposed salary regulation for further consideration constituted an appealable adjudication or final order within the Commonwealth Court's appellate jurisdiction.
2. Whether the Commonwealth Court had original jurisdiction over O'Neill's requests for declaratory and mandamus relief against the Commission.
3. Whether O'Neill had standing to challenge the Commission's refusal to consider the proposed regulation.
4. Whether O'Neill stated a cognizable claim that the Commission lacked authority to consider or enact the proposed salary regulation.
5. Whether the alleged failure to include materials in the meeting agenda packet and the use of executive sessions violated the Sunshine Act.
6. Whether the Commission's conduct violated O'Neill's rights under article I, sections 20 and 27 of the Pennsylvania Constitution.

HOLDINGS

1. The Commission's failure to accept the proposed regulation for further consideration was not an adjudication or final appealable order, so the Commonwealth Court lacked appellate subject-matter jurisdiction over Counts 1 through 5.
2. The Commonwealth Court had original jurisdiction over O'Neill's declaratory-judgment and mandamus claims against the Commission.
3. O'Neill lacked standing because he failed to allege a substantial, direct, and immediate interest adversely affected by the Commission's conduct.
4. The Commission lacked authority to consider the proposed regulation establishing minimum starting salaries for its employees.
5. O'Neill failed to state a claim under section 709(c.1) of the Sunshine Act because that provision concerns meeting-agenda notice, does not require copies of the underlying written materials, and expressly excludes executive sessions from its notice requirements.

6. O’Neill’s claims under article I, sections 20 and 27 of the Pennsylvania Constitution failed because those provisions did not confer a right to formal agency consideration or adjudication of his proposed salary regulation, and he identified no authority allowing him to compel the Commission to enact it.

KEY QUOTATIONS

“Contrary to O’Neill’s position, the Commission was not thereby agreeing to accept the Second O’Neill Letter Petition for further consideration.” (11)

“For that additional reason, the Commission’s refusal to accept the Second O’Neill Letter Petition for further consideration was not an agency adjudication subject to appellate review by this Court.” (12)

“Accordingly, O’Neill fails to point to any constitutional, statutory, or regulatory provision that would empower him to compel the Commission to undertake the enactment of a regulation raising employee salaries with the indirect goal of complying with the ERA.” (18)

FACTUAL BACKGROUND

O’Neill, a volunteer rather than a Commission employee, submitted petitions asking the Commission to promulgate a regulation increasing the minimum starting salaries of Waterway Conservation Officers and Assistant Regional Supervisors. Commission staff returned the petitions, explaining that compensation was governed by Commonwealth classification and compensation plans and a collective bargaining agreement, rather than by Commission regulation. The Commission nevertheless allowed O’Neill to make a five-minute presentation to the Board, after which no motion was made to accept the petition for further review. O’Neill challenged that treatment and alleged violations of the Sunshine Act and Pennsylvania constitutional rights.

PROCEDURAL HISTORY

O’Neill submitted petitions asking the Pennsylvania Fish and Boat Commission to promulgate a regulation increasing the starting salaries of Waterway Conservation Officers and Assistant Regional Supervisors. Commission staff returned the petitions as unacceptable. After O’Neill appealed internally, the Commission allowed him to make a presentation, but the Board did not move to accept the petition for further review. O’Neill then filed this proceeding seeking appellate review, declaratory and mandamus relief, and relief under the Sunshine Act and the Pennsylvania Constitution.

DISPOSITION

dismissed

CASES CITED

- *Doheny v. Department of Transportation, Bureau of Driver Licensing*, 171 A.3d 930, 935 n.12 (Pa. Cmwlth. 2017), *aff’d without op.*, 187 A.3d 246 (Pa. 2018)
- *Laurel Lake Ass’n, Inc. v. Pennsylvania Fish & Boat Commission*, 710 A.2d 129, 133 (Pa. Cmwlth. 1998)
- *Insurance Co. of North America v. Insurance Department*, 327 A.2d 411, 414 (Pa. Cmwlth. 1974)
- *Commonwealth v. Donahue*, 98 A.3d 1223, 1233 (Pa. 2014)

- Saunders v. Department of Corrections, 749 A.2d 553, 555 (Pa. Cmwlth. 2000)
- William Penn Parking Garage, Inc. v. City of Pittsburgh, 346 A.2d 269 (Pa. 1975)
- Scarnati v. Department of Environmental Protection, 220 A.3d 723, 728 (Pa. Cmwlth. 2019), aff'd, 240 A.3d 536 (Pa. 2020)
- National Solid Wastes Management Association v. Casey, 600 A.2d 260, 265 (Pa. Cmwlth. 1991), aff'd, 619 A.2d 1063 (Pa. 1993)
- MCT Transportation, Inc. v. Philadelphia Parking Authority, 60 A.3d 899, 904 (Pa. Cmwlth. 2013), aff'd, 81 A.3d 813 (Pa. 2013), and 83 A.3d 85 (Pa. 2013)
- Funk v. Wolf, 144 A.3d 228, 235 (Pa. Cmwlth. 2016), aff'd, 158 A.3d 642 (Pa. 2017)
- In re Nomination Petition of deYoung, 903 A.2d 1164, 1168 n.5 (Pa. 2006)

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