

SUPREME COURT OF OHIO

State ex rel. Kralik v. Zwelling

101 Ohio St. 3d 134 (Ohio 2004) · Decided February 11, 2004

SUMMARY

The Ohio Supreme Court held that claims for writs of mandamus and procedendo challenging a trial court’s stay of arbitration-award confirmation proceedings were not frivolous or obviously without merit. Because an arbitration panel lacked authority to reconsider its completed award, the trial court’s stay was erroneous, and the case was remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Lundberg Stratton, J.; O’Connor, J.; O’Donnell, J.
JURISDICTION	Ohio
DECIDED	February 11, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Kralik appealed as of right from the Muskingum County Court of Appeals' sua sponte dismissal of his complaint seeking writs of mandamus and procedendo.
STANDARD OF REVIEW	The court reviewed whether sua sponte dismissal was proper, applying the rule that such dismissal without notice is appropriate only when the complaint is frivolous or the claimant obviously cannot prevail on the alleged facts.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential.
PARTIES	Michael R. Kralik, M.D. v. Howard S. Zwelling, Judge

TOPICS

- arbitration
- appellate procedure
- remedies
- civil procedure
- standard of review

PRACTICE AREAS

- civil procedure
- arbitration
- extraordinary writs
- contracts

QUESTIONS PRESENTED

1. Whether the court of appeals improperly dismissed sua sponte Kralik's complaint for mandamus and procedendo on the ground that he had an adequate remedy by appeal.
2. Whether a trial judge may stay a proceeding to confirm and enter judgment on an arbitration award pending an arbitration panel's reconsideration of that award.
3. Whether mandamus or procedendo may issue when a trial court refuses or unduly delays proceeding to judgment for an invalid reason.

HOLDINGS

1. The court of appeals erred in sua sponte dismissing Kralik's complaint because the claims were neither frivolous nor obviously without merit.
2. Procedendo and mandamus will lie when a trial court has refused to render, or unduly delayed rendering, a judgment, including when the court has erroneously stayed the proceeding for a reason unrelated to its jurisdiction to proceed.
3. An arbitration panel lacks authority to reconsider a completed award, and a second award on the same circumscribed submission is a nullity.

KEY QUOTATIONS

“Once an arbitration is completed, a court has no jurisdiction except to confirm and enter judgment (R.C. 2711.09 and 2711.12), vacate (R.C. 2711.10 and 2711.13), modify (R.C. 2711.11 and 2711.13), correct (R.C. 2711.11 and 2711.13), or enforce the judgment (R.C. 2711.14).” (¶ 10)

“Based on the foregoing, the court of appeals erred in sua sponte dismissing Kralik’s complaint. Kralik’s claims are neither frivolous nor obviously without merit.” (¶ 12)

FACTUAL BACKGROUND

Zanesville Heart Specialists, Inc., and its shareholders, including Kralik, agreed to provide cardiothoracic services for Genesis Healthcare System. Genesis terminated the agreement after Zanesville Heart failed to remove Kralik from its service, and an arbitration panel awarded Kralik \$249,600 for premature termination. When Kralik sought confirmation and entry of judgment on the award, Judge Zwelling stayed the proceeding pending Genesis's motion for reconsideration before the arbitration panel.

PROCEDURAL HISTORY

After an arbitration panel awarded Kralik \$249,600 for Genesis Healthcare System's premature termination of an agreement, Kralik applied to the Muskingum County Court of Common Pleas to reduce the award to judgment. Judge Zwelling stayed the application pending Genesis's motion for reconsideration before the arbitration panel. Kralik then sought mandamus and procedendo in the court of appeals, which dismissed the complaint sua sponte on the ground that Kralik had an adequate remedy by appeal. The Supreme Court of Ohio reversed and remanded.

DISPOSITION

REMAND INSTRUCTIONS

The cause was remanded to the court of appeals for further proceedings on Kralik's mandamus and procedendo claims.

CASES CITED

- State ex rel. Mayer v. Henson, 97 Ohio St. 3d 276, 2002-Ohio-6323, 779 N.E.2d 223, ¶ 11
- McAuley v. Smith, 82 Ohio St. 3d 393, 395, 696 N.E.2d 572 (1998)
- State ex rel. Reynolds v. Basinger, 99 Ohio St. 3d 303, 2003-Ohio-3631, 791 N.E.2d 459, ¶ 5
- State ex rel. Crandall, Pheils & Wisniewski v. DeCessna, 73 Ohio St. 3d 180, 184, 652 N.E.2d 742 (1995)
- Miller v. Gunckle, 96 Ohio St. 3d 359, 2002-Ohio-4932, 775 N.E.2d 475, ¶ 23
- Lockhart v. Am. Res. Ins. Co., 2 Ohio App. 3d 99, 102, 2 OBR 112, 440 N.E.2d 1210 (1981)
- State ex rel. R.W. Sidley, Inc. v. Crawford, 100 Ohio St. 3d 113, 2003-Ohio-5101, 796 N.E.2d 929, ¶ 22
- Mahoning Cty. Bd. of Mental Retardation & Dev. Disabilities v. Mahoning Cty. TMR Edn. Assn., 22 Ohio St. 3d 80, 83, 22 OBR 95, 488 N.E.2d 872 (1986)
- State ex rel. Weiss v. Hoover, 84 Ohio St. 3d 530, 533, 705 N.E.2d 1227 (1999)
- State ex rel. Fogle v. Steiner, 74 Ohio St. 3d 158, 161, 656 N.E.2d 1288 (1995)

OPINION

PER CURIAM.

Per Curiam. {¶ 1} On May 28, 2002, Zanesville Heart Specialists, Inc. (“Zanesville Heart”), and its two shareholders, Peter E. Jensen, M.D., and appellant, Michael R. Kralik, M.D., agreed to provide cardiothoracic services for Genesis Healthcare System (“Genesis”) in Zanesville, Ohio. In November 2002, Genesis notified Zanesville Heart that it was terminating the agreement because Zanesville Heart had failed to remove Kralik from its service. {¶ 2} Kralik then filed suit in the Muskingum County Court of Common Pleas seeking, inter alia, an injunction restraining Genesis from wrongfully terminating the agreement and damages for breach of contract.

Pursuant to the parties’ agreement, Kralik’s claims were referred to arbitration. {¶ 3} On June 20, 2003, arbitrators awarded Kralik \$249,600 from Genesis for its premature termination of the agreement. {¶ 4} On June 24, 2003, Kralik applied for the common pleas court to reduce the arbitration award to judgment. Genesis opposed the application and request*135ed that the court “hold the arbitration award in abeyance pending resolution of a motion for reconsideration [Genesis] plans to file with the Arbitration Panel assigned to this matter.” Genesis claimed that “it would be premature to reduce the award to judgment until the motion for reconsideration is fully

adjudicated.” In response, Kralik cited precedent holding that an arbitration panel lacked authority to reconsider an award.

On June 27, 2003, appellee, Judge Howard S. Zwelling of the common pleas court, stayed consideration of Kralik’s application “until a decision has been rendered by the Arbitration Panel with respect to the Motion for Reconsideration filed by [Genesis].” {¶ 5} In July 2003, Kralik filed a complaint in the Court of Appeals for Muskingum County. Kralik requested a writ of mandamus commanding Judge Zwelling to confirm the arbitration award and enter judgment on it or to show cause why he had not done so.

Kralik also requested a writ of procedendo ordering Judge Zwelling to proceed with the hearing and determination of his application to reduce the arbitration award to judgment. In August 2003, the court of appeals sua sponte dismissed Kralik’s complaint because he had “an adequate remedy at law by way of appeal.” {¶ 6} This cause is now before the court for its consideration of Kralik’s appeal of right. {¶ 7} In his appeal of right, Kralik asserts that the court of appeals erred in dismissing his actions for writs of procedendo and mandamus.

For the reasons that follow, we hold that Kralik’s claims may have merit and reverse the judgment of the court of appeals. {¶ 8} “ ‘Sua sponte dismissal without notice is appropriate only if the complaint is frivolous or the claimant obviously cannot prevail on the facts alleged in the complaint.’ ” State ex rel. Mayer v. Henson, 97 Ohio St.3d 276, 2002-Ohio-6323, 779 N.E.2d 223, ¶ 11, quoting McAuley v. Smith (1998), 82 Ohio St.3d 393, 395, 696 N.E.2d 572. {¶ 9} “[P]rocedendo and mandamus will lie when a trial court has refused to render, or unduly delayed rendering, a judgment.” State ex rel.

Reynolds v. Basinger, 99 Ohio St.3d 303, 2003-Ohio-3631, 791 N.E.2d 459, ¶ 5. Thus, a writ of procedendo will issue requiring a judge to proceed to final judgment if the judge erroneously stayed the proceeding because of a pending case that does not affect the court’s jurisdiction to proceed. State ex. rel. Crandall, Pheils & Wisniewski v. DeCessna (1995), 73 Ohio St.3d 180, 184, 652 N.E.2d 742. {¶ 10} Judge Zwelling erroneously stayed Kralik’s proceeding to reduce the arbitration award to judgment based on the reconsideration motion submitted by Genesis to the arbitration panel. “R.C.

Chapter 2711 does not confer authority on an arbitration panel to reconsider its awards.” Miller v. Gunckle, 96 Ohio St.3d 359, 2002-Ohio-4932, 775 N.E.2d 475, ¶ 23. Therefore, “ ‘[w]hen the submit*136ted issues are decided, the arbitrators’ powers expire.

Thus, a second award on a single, circumscribed submission is a nullity.’ ” Id., 96 Ohio St.3d 359, 2002-Ohio-4932, 775 N.E.2d 475, at ¶ 23, quoting Lockhart v. Am. Res. Ins. Co. (1981), 2 Ohio App.3d 99, 102, 2 OBR 112, 440 N.E.2d 1210.

In other words, “[o]nce an arbitration is completed, a court has no jurisdiction except to confirm and enter judgment (R.C. 2711.09 and 2711.12), vacate (R.C. 2711.10 and 2711.13), modify (R.C. 2711.11 and 2711.13), correct (R.C. 2711.11 and 2711.13), or enforce the judgment (R.C. 2711.14).” *State ex rel. R.W. Sidley, Inc. v. Crawford*, 100 Ohio St.3d 113, 2003-Ohio-5101, 796 N.E.2d 929, ¶ 22.

The reconsideration motion by Genesis did not affect Judge Zwelling’s jurisdiction to proceed with Kralik’s action to confirm and enter judgment on the arbitration award. Black, McCuskey, Souers & Arbaugh and Thomas W. Connors, for appellant. Howard S. Zwelling, pro se. {¶ 11} Moreover, Kralik does not have an adequate legal remedy for Judge Zwelling’s stay.

A preeminent objective of arbitration is to provide the parties with a “relatively speedy and inexpensive method of conflict resolution.” *Mahoning Cty. Bd. of Mental Retardation & Dev. Disabilities v. Mahoning Cty. TMR Edn. Assn.* (1986), 22 Ohio St.3d 80, 83, 22 OBR 95, 488 N.E.2d 872. That objective is not advanced when a judge stays an arbitration confirmation proceeding for invalid reasons that could result in a second arbitration proceeding.

Cf. *State ex rel. Weiss v. Hoover* (1999), 84 Ohio St.3d 530, 533, 705 N.E.2d 1227, where we held that a writ of procedendo would issue to compel a municipal court judge to proceed with a forcible entry and detainer action he had erroneously stayed because “[n]o alternate remedy will further the purpose behind forcible entry and detainer, which is to provide a summary, extraordinary, and speedy method for the recovery of possession of real estate.” {¶ 12} Based on the foregoing, the court of appeals erred in sua sponte dismissing Kralik’s complaint.

Kralik’s claims are neither frivolous nor obviously without merit. Therefore, we reverse the judgment of the court of appeals and remand the cause for further proceedings. *State ex rel. Fogle v. Steiner* (1995), 74 Ohio St.3d 158, 161, 656 N.E.2d 1288. Judgment reversed and cause remanded. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O’Connor and O’Donnell, JJ., concur.