

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Wade Painter v. David Ballard, Warden

237 W. Va. 502 (2016) · No. No. 14-1266 · Decided June 8, 2016

SUMMARY

The Supreme Court of Appeals of West Virginia held that a warden may deduct funds provided to an inmate by family or friends to satisfy court-ordered restitution under West Virginia Code § 25-1-3c(c) (1). The court concluded that the regulatory exclusion of such funds from “earnings” in Division of Corrections Policy Directive 111.06 was arbitrary and capricious and could be disregarded. The court affirmed the restitution-related disposition but reversed the lower court’s conclusions regarding venue and jurisdiction.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Benjamin; Justice Ketchum
JURISDICTION	West Virginia
DECIDED	June 8, 2016
DOCKET	No. 14-1266
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the dismissal of a petition for writ of mandamus challenging deductions from a state prison inmate account to satisfy court-ordered restitution.
STANDARD OF REVIEW	De novo review of an order granting a motion to dismiss, including dismissal of a petition for writ of mandamus.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Wade Painter v. David Ballard, Warden

TOPICS

post-conviction relief administrative law judicial review of agency action statutory interpretation remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a petition for writ of mandamus against the warden of a state correctional facility was properly filed in the Kanawha County Circuit Court.
2. Whether West Virginia Code section 25-1-3c(c)(1) permits the Division of Corrections to deduct up to 40 percent of funds provided to an inmate by family or friends to satisfy court-ordered restitution.
3. Whether the exclusion of funds provided by family or friends from the definition of earnings in Policy Directive 111.06 is an arbitrary and capricious legislative rule provision that may be disregarded.

HOLDINGS

1. A petition for writ of mandamus seeking to compel the warden, a state official, to perform a nondiscretionary legal duty concerning inmate-account deductions is properly and exclusively filed in the Kanawha County Circuit Court, which has jurisdiction over mandamus proceedings against state officials.
2. West Virginia Code section 25-1-3c(c)(1) permits the Division of Corrections to deduct up to 40 percent of funds provided to an inmate by family or friends for payment of court-ordered restitution.

KEY QUOTATIONS

“In sum, we hold that for the purpose of ensuring that an inmate satisfies his or her court-ordered financial obligations, W. Va. Code § 25-1-3c(c)(1) (2005) permits the Division of Corrections to make deductions from funds provided to the inmate by family or friends.” (at 19-20)

“The exclusion of “funds provided inmates by family or friends” from the definition of “earnings” in Policy Directive 111.06(III) (2006), a legislative rule promulgated by the Division of Corrections, is arbitrary and capricious and therefore may be ignored.” (at 20)

“The Kanawha circuit court is the only court with jurisdiction in which venue is proper in the present mandamus action against the Warden.” (at 11)

FACTUAL BACKGROUND

Painter was serving consecutive sentences at Mount Olive Correctional Complex, including two life sentences, and had been ordered by the Berkeley County Circuit Court to pay restitution from money in any prison account or from any assets. The Division of Corrections deducted 40 percent of money Painter received from family and friends to satisfy the restitution obligation. Painter challenged those deductions under West Virginia Code section 25-1-3c(c)(1) and Policy Directive 111.06, which excluded funds provided by family or friends from the definition of earnings.

PROCEDURAL HISTORY

Painter exhausted the applicable administrative grievance procedures after the Division of Corrections deducted 40 percent of funds provided by family and friends from his inmate account. He first filed a mandamus petition

in the Fayette County Circuit Court, which dismissed it for improper venue. He then filed in the Kanawha County Circuit Court, which dismissed the petition for lack of jurisdiction, improper venue, and failure to state a claim. The Supreme Court of Appeals of West Virginia affirmed the dismissal insofar as the deductions were lawful but reversed the circuit court's conclusions concerning venue and jurisdiction.

DISPOSITION

other

CASES CITED

- State ex rel. McGraw v. Scott Runyan Pontiac-Buick, Inc., 194 W. Va. 770, 461 S.E.2d 516 (1995)
- Shaffer v. W. Va. Department of Transportation, Division of Highways, 208 W. Va. 673, 542 S.E.2d 836 (2000)
- Ferguson v. Seifert, No. 12-1195, 2013 WL 5508430 (W. Va. Oct. 4, 2013)
- Jones v. West Virginia Public Employees Retirement System, No. 101327, 2011 WL 8183115 (W. Va. Sept. 23, 2011)
- State ex rel. Cooper v. Caperton, 196 W. Va. 208, 470 S.E.2d 162 (1996)
- Myers v. Barte, 167 W. Va. 194, 279 S.E.2d 406 (1981)
- Hinkle v. Bauer Lumber & Home Building Center, Inc., 158 W. Va. 492, 211 S.E.2d 705 (1975)
- West Virginia Secondary School Activities Commission v. Wagner, 143 W. Va. 508, 102 S.E.2d 901 (1958)
- Sidney C. Smith Corp. v. Dailey, 136 W. Va. 380, 67 S.E.2d 523 (1951)
- State ex rel. Wheeling Downs Racing Association v. Perry, 148 W. Va. 68, 132 S.E.2d 922 (1963)
- State ex rel. Stewart v. Alsop, 207 W. Va. 430, 533 S.E.2d 362 (2000)
- Thomas v. Board of Education of McDowell County, 167 W. Va. 911, 280 S.E.2d 816 (1981)
- West Virginia Board of Medicine v. Spillers, 187 W. Va. 257, 418 S.E.2d 571 (1992)
- Appalachian Power Co. v. State Tax Department of West Virginia, 195 W. Va. 573, 466 S.E.2d 424 (1995)
- West Virginia Health Care Cost Review Authority v. Boone Memorial Hospital, 196 W. Va. 326, 472 S.E.2d 411 (1996)
- Hereford v. Meek, 132 W. Va. 373, 52 S.E.2d 740 (1949)
- Cummings v. IRS, 73 F.2d 477 (1st Cir. 1934)
- Nestle Waters North America, Inc. v. City of New York, 990 N.Y.S.2d 512 (N.Y. App. Div. 2014)
- Blank v. Department of Corrections, 564 N.W.2d 130 (Mich. Ct. App. 1997)
- Deese v. South Carolina State Board of Dentistry, 332 S.E.2d 539 (S.C. Ct. App. 1985)
- Dravo Basic Materials Co. v. State, Department of Transportation, 602 So. 2d 632 (Fla. Dist. Ct. App. 1992)
- Chico Dairy Co. v. Human Rights Commission, 181 W. Va. 238, 382 S.E.2d 757 (1989)