

Denial of Motion for Peremptory Judgment in the Nature of Mandamus in a public employment matter involving police officers and fire fighters

The first case that we will be hearing is one entitled Anderson Aniska and Azzarelli v. the City of Scranton and the Mayor of Scranton, Christopher Doherty.

This case from a procedural standpoint is a little bit different than your ordinary case because it is not an appeal from a final order. Routinely appeals are taken from the order that disposes of all claims and all parties before the court. In this case, you have an appeal by permission from an interlocutory order and that order here is an order that denied peremptory judgment. Peremptory judgment is akin to a motion for summary judgment, but is used when the underlying action is one that is filed in Mandamus. Mandamus is a common law cause of action that requires that the moving party prove that the respondent has a duty to perform, that the moving party is the party for whom that duty should be performed, and that there is no other remedy at law.

In this case, in particular, arises out of what has been a long term financial difficulty for the City of Scranton. For about 25 years the city has been in financial distress and has been under supervision pursuant to what is referred to as Act 47, and under Act 47 there is supposed to be a state-appointed supervisor who helps develop a plan for the city and the overall goal is to assist the city in achieving financial stability.

A large part of the city's budget is its police force and its fire fighters, and this particular case is only one of a series in which the various entities including the mayor, the plan organizer, the plan supervisor, have been trying to reduce expenditures for police and fire.

A number of the other cases have involved arbitration awards that have been issued under what is called "interest arbitration," and these have repeatedly encouraged or granted relief to the police and fire fighters that the city has argued it lacks the budget to finance.

In this case, rather than dealing with the unions directly, here you have a situation which the city counsel for the City of Scranton passed two ordinances, one for fire fighters, one for police officers, establishing a minimum level of staffing for the police and fire departments. The mayor, notwithstanding these ordinances, proposed to city council a budget that included reductions in the staffing of the police and fire departments. Thereafter, the mayor gave notice to the Union that he would not be filling some of the vacancies and in fact would be imposing layoffs to further reduce staffing levels in the fire and police departments. In response to this, certain citizens brought suit against the mayor, arguing that he had a legal duty that he had to be commanded to abide by the ordinances passed by city council. The problem that they ran into, and the reason that

they are the appellants here and why they lost below, is that the City of Scranton is a home-rule charter municipality and as such, has established a government organization that provides for a strong mayor. If you think of it as analogous to the organization of the U.S. government where you have three co-equal branches of government, here you have a mayor, which is the executive branch, you have city council, which is like the legislature. And there are certain powers that the mayor successfully argued are reserved to him and that includes the size of the executive branch. So his argument is that these ordinances were outside the obligations, the duties, the responsibilities of city council and therefore he does not need to comply with them. The trial courts similarly agreed that the attempt by city council to restrict the size of the executive branch was an interference with the executive branch's function under the city charter, and accordingly, dismissed, denied the motion for peremptory judgment. Now, he did not enter summary judgment on, or peremptory judgment on behalf of the mayor, hence the need to take an interlocutory appeal by permission.

The judges will be hearing arguments first, on behalf of the individuals that filed suit, the one whose motion for peremptory judgment was denied, and that will be followed by argument on behalf of the mayor. City council has filed a brief as an amicus and whether or not they will be arguing I don't know at this time.

With that you have the background for understanding the arguments to be presented to the court.