STATE OF MICHIGAN

COURT OF APPEALS

TIMOTHY PATTERSON, CARL UNDERWOOD and BILLY BALDRIDGE, Plaintiffs-Appellees, v WASHTENAW COUNTY SHERIFF, Defendant-Appellant.	UNPUBLISHED July 15, 2008 No. 275585 Washtenaw Circuit Court LC No. 06-001307-PZ

Before: Gleicher, P.J., and Fitzgerald and Hoekstra, JJ.

PER CURIAM.

Defendant Washtenaw County Sheriff appeals as of right from a circuit court order granting plaintiffs' petition for a writ of mandamus. Because no present case or controversy exists, we dismiss this appeal as moot.

On July 24, 2006, defendant declared a jail overcrowding state of emergency in the Washtenaw County Jail, pursuant to MCL 801.52 and MCL 801.53. Defendant duly notified various public officials regarding the jail overcrowding emergency, as required by MCL 801.54. The county officials then attempted to reduce the jail population by utilizing the procedures described in MCL 801.55 and MCL 801.56(2) and (3). These methods did not reduce the jail population to an acceptable level.

If jail overcrowding persists for 28 days despite efforts to eliminate it, MCL 801.57 requires that

> the original sentences, not including good time, of all prisoners sentenced to and housed in the county jail on that date shall be equally reduced by the sheriff by the least possible percentage reduction necessary, not to exceed 30%, to reduce the county jail's prisoner population to the level prescribed in section 6(l).

Overcrowding persisted within the Washtenaw County Jail as of August 21, 2006, the 28th day after defendant's declaration of a jail overcrowding emergency. However, defendant refused to comply with MCL 801.57.

Instead, on October 3, 2006, defendant declared an end to the jail overcrowding emergency by invoking MCL 801.59(b), which permits a sheriff to end a county jail

overcrowding state of emergency if the jail's population has not dropped to the statutorily prescribed level "within 70 days after the declaration of the [county] jail overcrowding [state of] emergency."

On October 5, 2006, Washtenaw Circuit Court Chief Judge Archie Brown notified defendant that he had erroneously declared an end to the jail overcrowding emergency without first implementing the jail sentence reductions mandated by MCL 801.57. Chief Judge Brown's email to defendant concluded,

> A plain reading of the Overcrowding of County Jail State of Emergency Act found at MCL 801.51 *et seq*., and the holding of the Court of Appeals in *Muskegon County Board of Commissioners v Muskegon Circuit Judge*, 188 Mich App 270[; 469 NW2d 441] (1991), mandate that you exercise the authority granted to you as Sheriff under Section 7 (MCL 801.57) of the Act, prior to your exercise of authority under Section 9 (MCL 801.59) of the Act.

Defendant then reversed his declaration ending the jail overcrowding emergency and implemented MCL 801.58, which requires a sheriff to defer acceptance of newly sentenced prisoners during a jail overcrowding emergency. Defendant nonetheless persisted in his refusal to implement the sentence reductions called for in MCL 801.57.

In November 2006, three jail inmates, including plaintiffs Timothy Patterson and Carl Underwood, filed a petition seeking mandamus, specifically a circuit court order compelling defendant to implement MCL 801.57. Plaintiffs filed an amended complaint December 12, 2006, adding Billy Baldridge as a plaintiff. On December 19, 2006, the circuit court issued an opinion and order granting the petition for mandamus. The circuit court observed that because the three original plaintiffs had been released from the jail, only plaintiff Baldridge had standing to seek mandamus. The circuit court found that defendant violated his clear legal duty to implement § 7, and concluded that "petitioner Baldridge is entitled to a sentence reduction." Defendant now appeals, claiming that all four plaintiffs lacked standing to pursue their complaint, and that Baldridge's failure to seek an alternate legal remedy barred his claim for mandamus.

The parties agree that Baldridge served his jail sentence and earned his release from jail in September 2007. Thus, implementation of the writ of mandamus with respect to Baldridge qualifies as moot. *Attorney Gen v Pub Service Comm*, 269 Mich App 473, 485; 713 NW2d 290 (2005). "Mootness precludes the adjudication of a claim where the actual controversy no longer exists, such as where 'the issues presented are no longer "live" or the parties lack a legally cognizable interest in the outcome.'" *Michigan Chiropractic Council v Comm'r of Office of Financial & Ins Services*, 475 Mich 363, 371 n 15; 716 NW2d 561 (2006) (opinion by Young, J.), quoting *Los Angeles Co v Davis*, 440 US 625, 631; 99 S Ct 1379; 59 L Ed 2d 642 (1979), quoting *Powell v McCormack*, 395 US 486, 496; 89 S Ct 1944; 23 L Ed 2d 491 (1969). This Court does not address moot questions or declare rules of law lacking practical legal effect. *Federated Publications, Inc v City of Lansing*, 467 Mich 98, 112; 649 NW2d 383 (2002), clarified in *Herald Co, Inc v Eastern Michigan Univ Bd of Regents*, 475 Mich 463, 471-472; 719 NW2d 19 (2006). However, we may decide cases that technically qualify as moot if they present issues of public significance that likely will recur in the future, yet evade judicial review. *Socialist Workers Party v Secretary of State*, 412 Mich 571, 582 n 11; 317 NW2d 1 (1982).

Although we view the issues presented here as publicly significant, we are not persuaded that they likely will recur with any regularity but evade judicial review.

Dismissed.

/s/ Judge Elizabeth L. Gleicher
/s/ E. Thomas Fitzgerald
/s/ Joel P. Hoekstra