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Supreme Court of Kentucky

2023-SC-0181-MR

KENTUCKY COMMUNITY & TECHNICAL
COLLEGE SYSTEM AND DAVID ADKINS, IN
HIS OFFICIAL CAPACITY AS DIRECTOR OF
TREASURY

APPELLANTS

V. ON APPEAL FROM COURT OF APPEALS
NO. 2022-CA-1342
FRANKLIN CIRCUIT COURT NO. 18-C1-00975

HONORABLE THOMAS DAWSON
WINGATE, JUDGE, FRANKLIN CIRCUIT
COURT

APPELLEE

AND

ALLISON BALL, IN HER OFFICIAL CAPACITY
AS KENTUCKY STATE TREASURER;
KIMBERLY BENNETT; COMMONWEALTH OF
KENTUCKY, DEPARTMENT OF REVENUE;
PENNY COX, IN HER OFFICIAL CAPACITY AS
UNIVERSITY OF KENTUCKY TREASURER;
BENJAMIN LANE; SAYRE LAWRENCE; RONNIE
LESTER, INDIVIDUALLY AND ON BEHALF OF
A CLASS OF OTHERS SIMILARLY SITUATED; TERESA
LINDGREN, IN HER OFFICIAL CAPACITY AS
MOREHEAD CHIEF FINANCIAL OFFICER;
MOREHEAD STATE UNIVERSITY AND
UNIVERSITY OF KENTUCKY

APPELLEES/REAL PARTIES
IN INTEREST

MEMORANDUM OPINION OF THE COURT

AFFIRMING

Petitioners, Kentucky Community & Technical College System (“KCTCS”) and David Adkins, filed a petition seeking a writ of mandamus in the Kentucky

Court of Appeals to compel the Franklin Circuit Court to enter an order dismissing the underlying case for lack of subject matter jurisdiction.

Following a close review of the record and the issues, we affirm the Court of Appeals' order denying the petition for a writ of mandamus.

I. BACKGROUND

The complex background of this matter was capably distilled by the Court of Appeals:

In addition to this original action, the matter is now the subject of three separate appeals currently before this Court. For the purposes of this original action, only a brief retelling of the basic facts and specific procedural steps leading to it are necessary. This matter was initiated by the Bennett Plaintiffs in Franklin Circuit Court. In addition to Petitioners, they sued several Kentucky public universities and state officials.

According to the Bennett Petitioners' complaint, KCTCS and others, in conjunction with the Kentucky Department of Revenue (DOR), engaged in illegal practices to collect alleged tuition debts from students. Real Parties in Interest Ronnie Lester and Sayre Lawrence were students of KCTCS who had alleged tuition debts referred to DOR for collection. DOR collected these funds from them by levying on state tax returns. KCTCS moved to dismiss the complaint on several alternate grounds. It argued the trial court lacked subject matter jurisdiction as none of the individual claims for money damages met the statutory minimum of \$5,000 necessary to invoke the jurisdiction of circuit court pursuant to KRS 24A.120. KCTCS also argued the complaint against it should be dismissed as it enjoyed sovereign immunity.

On October 19, 2022, the trial court entered an order denying the motions to dismiss of KCTCS and other defendants. While the trial court entered an eight-page order with considerable analysis concerning certain topics, it did not address KCTCS's amount in controversy argument directly. Because the trial court ruled KCTCS and other defendants were not entitled to sovereign immunity, several defendants, including KCTCS, took direct appeals from the October 19, 2022, order pursuant to *Breathitt County Board of Education v. Prater*, 292 S.W.3d 883 (Ky. 2009).

Ky. Cmty. & Tech. Coll. Sys. v. Wingate, No. 2022-CA-1342-OA (Ky. App. Mar. 23, 2023).

In addition to the direct appeals, KCTCS filed this original action in the Court of Appeals seeking a writ of mandamus pursuant to RAP¹ 60 directing the trial court to dismiss the underlying action for lack of jurisdiction. Before the Court of Appeals, KCTCS made much of the same argument as it does now: because claims in a class action may not be aggregated to reach the jurisdictional threshold, *Lamar v. Off. of Sheriff of Daviess Cnty.*, 669 S.W.2d 27, 31 (Ky. App. 1984), one of the named plaintiffs must present claims meeting the \$5,000 jurisdictional minimum to be heard in Circuit Court. KRS² 24A.120(1). This, KCTCS alleges, plaintiffs have not and cannot do, and thus the action must be dismissed for want of subject matter jurisdiction.

The Court of Appeals denied the writ. It declined to entertain dismissal of the entire case because it determined the plaintiffs had plead a legitimate cause of action for declaration of rights challenging the validity of KCTCS's referral of debts to the Department of Revenue, over which the circuit court clearly had jurisdiction. KRS 418.040; KRS 23A.010(1); Ky. Const. § 112(5). As to the remaining claims, the Court of Appeals similarly declined to issue the writ, noting the apparent failure of the trial court to address the jurisdictional

¹ Kentucky Rules of Appellate Procedure.

² Kentucky Revised Statutes.

issue as well as the unsettled nature of the legal issues presented by KCTCS.³ KCTCS appealed that decision to this Court.

II. ANALYSIS

The choice to grant or deny a writ of mandamus is “not a question of jurisdiction, but of discretion.” *Imhoff v. House*, 628 S.W.3d 88, 91 (Ky. 2021) (quoting *Hoskins v. Maricle*, 150 S.W.3d 1, 5 (Ky. 2004)). Accordingly, the Court of Appeals decision is reviewed for abuse of discretion. *Id.* (citing *Appalachian Racing, LLC v. Commonwealth*, 504 S.W.3d 1, 3 (Ky. 2016)). We will not reverse the Court of Appeals unless its holding was “arbitrary, unreasonable, unfair, or unsupported by sound legal principles.” *Id.* (quoting *Appalachian Racing*, 504 S.W.3d at 3).

We have recognized two scenarios in which an extraordinary writ may be granted:

(1) the lower court is proceeding or is about to proceed outside of its jurisdiction and there is no remedy through an application to an intermediate court; or (2) . . . the lower court is acting or is about to act erroneously, although within its jurisdiction, and there exists no adequate remedy by appeal or otherwise and great injustice and irreparable injury will result if the petition is not granted.

Hoskins, 150 S.W.3d at 10. Of these two classes of writs, only the first is implicated here.

³ Specifically, the Court of Appeals addressed the questions of whether the circuit court could have ancillary jurisdiction over the monetary claims even if they failed to meet the jurisdictional minimum and whether the circuit court could certify a class even where no named plaintiff meets the amount required. In both cases, the Court of Appeals determined the issues to be unsettled, but did not find resolution of the questions to be necessary to denial of the writ.

In the context of first-class writs, jurisdiction is understood to mean subject matter jurisdiction, or, “the authority not simply to hear ‘this case[,] but *this kind of case.*” *Davis v. Wingate*, 437 S.W.3d 720, 725 (Ky. 2014) (quoting *Daugherty v. Telek*, 366 S.W.3d 463, 466 (Ky. 2012)). “A court acts outside its jurisdiction, accordingly, only ‘where [it] has not been given, by constitutional provision or statute, the power to do anything at all.’” *Id.* (quoting *Daugherty*, 366 S.W.3d at 467).

Here, the trial court is alleged to be operating outside of its jurisdiction by presiding over a matter where the amount in controversy is under \$5,000 as the legislature has clearly vested jurisdiction of such cases to the district, not circuit, court. KRS 24A.120(1) (“District Court shall have exclusive jurisdiction in [] Civil cases in which the amount in controversy does not exceed five thousand dollars”). However, as the Court of Appeals correctly noted, the claim for money damages is only one portion of the underlying case, the other being a claim for declaratory relief. The Court of Appeals was again correct in holding that at minimum the trial court had jurisdiction over that claim pursuant to KRS 418.040. Thus, the trial court would retain jurisdiction over that claim even if the other claims were ordered dismissed, KRS 418.040 (“plaintiff may ask for a declaration of rights, either alone or with other relief; and the court may make a binding declaration of rights, *whether or not consequential relief is or could be asked[]*” (emphasis added)), making wholesale dismissal of this matter inappropriate.

This leaves us with the more limited question of whether the trial court has acted outside its jurisdiction as to the claims seeking monetary remuneration. For the reasons set forth below, we must decline to answer that question at this time. Contrary to KCTCS's assertion, "whether to issue a writ is 'always discretionary, even when the trial court was acting outside its jurisdiction.'" *Cox v. Braden*, 266 S.W.3d 792, 797 (Ky. 2008) (quoting *Hoskins*, 150 S.W.3d at 9). In this instance, several factors militate against resolving the legal questions presented.

First, we agree with the Court of Appeals that this question has not been resolved by the trial court. The order which set in motion the filing of this original action does not purport to rule as to the jurisdictional question, meaning, presumably, that question remains before the trial judge for determination. This Court's grant of the writ would be premature when the trial court has not had the opportunity to speak on the question. *See Rigney v. Bartholomew*, No. 2012-SC-000147-MR, 2012 WL 3637218, at *5 (Ky. Aug. 23, 2012) ("the writ petition was premature without their having first asked the trial court to address the question of personal jurisdiction and their lack of an opportunity to be heard[]").

Second, and relatedly, the limited record before does not even conclusively demonstrate that none of the named plaintiffs in the underlying case can present a claim for more than \$5,000. We acknowledge KCTCS's position that plaintiffs have yet to present evidence that any one of them paid over the jurisdictional minimum to the DOR, however, we must also

acknowledge that the underlying plaintiffs have represented to the trial court that one of them has indeed paid over \$5,000 to the DOR and seeks recoupment of that amount. Because there appears to be an unresolved factual issue that is fundamental to resolution of the jurisdictional question, it would again be premature for us to grant the relief requested here. See *H & D Mining, Inc. v. Maricle*, No. 2008-SC-000347-MR, No. 2008-SC-000357-MR, 2009 WL 1451921, at *3 (Ky. May 21, 2009) (“Often, if not always, a determination as to whether a trial court has subject matter jurisdiction is one of fact-finding. . . . Trial courts must give cases an opportunity to breathe before they are declared dead. . . . We essentially hold today that granting the writ in this instance would be premature[.]”).

Finally, we take note that in addition to seeking this writ, KCTCS’s fellow defendants in the underlying action have filed a direct appeal of the trial court’s order denying dismissal on sovereign immunity grounds. Additionally, the trial court has pending a Motion to Reconsider as to the jurisdictional issue. This matter may ultimately be dismissed as a result of the direct appeal, thereby negating any need to resolve the issues presented by this writ application. If the case is not dismissed, then it will be returned to the trial court for a full determination of the jurisdiction question. Again, the posture of this matter convinces us that granting the writ is premature at this point.

III. CONCLUSION

For the foregoing reasons, the Court of Appeals’ decision is affirmed.

All sitting. All concur.

COUNSEL FOR APPELLANTS:

Melissa Norman Bork
Brent Robert Baughman
Sarah Elisabeth Laren
Dentons Bingham Greenebaum, LLP

COUNSEL FOR APPELLEE/REAL PARTY IN INTEREST,
ALLISON BALL, IN HER OFFICIAL CAPACITY AS KENTUCKY
STATE TRESURER:

Brittany Jayde Warford

COUNSEL FOR APPELLEES/REAL PARTIES IN INTEREST,
KIMBERLY BENNETT; BENJAMIN LANE; SAYRE LAWRENCE
AND RONNIE LESTER, INDIVIDUALLY AND ON BEHALF OF A
CLASS OF OTHERS SIMILARLY SITUATED:

Bryan Collin Hix
McNamara & Jones

Edwin Douglas Richards

COUNSEL FOR APPELLEE/REAL PARTY IN INTEREST,
COMMONWEALTH OF KENTUCKY, DEPARTMENT OF REVENUE:

Raymond Campbell Connell
Frank Leslie Dempsey
Austin Tygrett Green

COUNSEL FOR APPELLEE/REAL PARTY IN INTEREST,
PENNY COX, IN HER OFFICIAL CAPACITY AS UNIVERSITY OF
KENTUCKY TREASURER AND UNIVERSITY OF KENTUCKY:

Bryan H. Beaman
Kevin Gudgel Henry
Donald Morgan
Sturgill Turner Barker & Moloney

COUNSEL FOR APPELLEE/REAL PARTY IN INTEREST,
TERESA LINDGREN, IN HER OFFICIAL CAPACITY AS MOREHEAD
CHIEF FINANCIAL ADVISOR AND MOREHEAD STATE UNIVERSITY:

Jessica Roberts Stigall
Morehead State University