

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Youngstown Civ. Serv. Comm. v. Sweeney*, Slip Opinion No. 2023-Ohio-3006.]

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**SLIP OPINION NO. 2023-OHIO-3006**

**THE STATE EX REL. YOUNGSTOWN CIVIL SERVICE COMMISSION ET AL. v.  
SWEENEY, JUDGE, ET AL.**

**[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Youngstown Civ. Serv. Comm. v. Sweeney*, Slip Opinion No. 2023-Ohio-3006.]**

*Prohibition—Writ sought to prevent common-pleas-court judge from exercising jurisdiction over administrative appeal and to require judge to vacate all orders issued in appeal—Parties’ evidence shows that pending administrative appeal is timely and common-pleas-court judge does not patently and unambiguously lack jurisdiction over it—Relator has adequate remedy by way of appeal for any error in exercise of jurisdiction—Writ denied.*

(No. 2022-0802—Submitted May 16, 2023—Decided August 30, 2023.)

IN PROHIBITION.

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**Per Curiam.**

{¶ 1} Relators, Youngstown Civil Service Commission (the “commission”), the city of Youngstown, and Youngstown Mayor Jamael Tito Brown (collectively, “Youngstown”), seek a writ of prohibition to prevent respondent, Mahoning County Court of Common Pleas Judge Maureen A. Sweeney, from exercising jurisdiction over an administrative appeal commenced by Michael R. Cox in July 2020 and to require her to vacate all orders issued in the appeal. Youngstown contends that Judge Sweeney patently and unambiguously lacks jurisdiction because Cox’s appeal is untimely based on our decision in *State ex rel. Cox v. Youngstown Civ. Serv. Comm.*, 165 Ohio St.3d 240, 2021-Ohio-2799, 177 N.E.3d 267. In that case, we held that Cox had had 30 days from July 17, 2019, to appeal to the common pleas court the commission’s decision denying his appeal of the mayor’s appointment of another person to the position of police lieutenant. *Id.* at ¶ 26.

{¶ 2} We deny the writ. Because the parties’ evidence shows that Cox’s July 2020 notice of appeal purports to appeal a June 2020 order of the commission, his pending administrative appeal is timely and Judge Sweeney does not patently and unambiguously lack jurisdiction over it. To the extent that Judge Sweeney allows Cox to raise issues on appeal related to the commission’s July 2019 final order, Youngstown has an adequate remedy in the ordinary course of law by way of an appeal to challenge any error.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

**A. The Underlying Dispute: Cox Seeks Promotion to Lieutenant**

{¶ 3} Cox is a detective sergeant in the Youngstown police department. In June 2018, Cox was among several detective sergeants who sat for an exam administered by the commission. The commission used the exam results to establish a list of candidates eligible for promotion to lieutenant.

{¶ 4} Following the exam, Cox and other examinees protested the exam's fairness. In response to the protests, the commission adjusted the grades, after which Cox ranked third on the eligibility list for lieutenant. In May 2019, Mayor Brown appointed to lieutenant the examinee who ranked first on the list. That same month, Cox appealed the mayor's appointment to the commission.

{¶ 5} The commission addressed Cox's appeal at its June 19, 2019 regular meeting. The minutes from that meeting state, "Michael Cox's case has been concluded." On July 17, 2019, the commission approved the minutes from the June 19 meeting. Rule XII of the Youngstown Civil Service Commission Rules ("YCSCR") requires that the commission notify all parties in writing of its decision in an appeal. The commission did not, however, provide Cox with a copy of the approved minutes or any other written record of its decision.

{¶ 6} On May 14, 2020, nearly one year later, Cox filed with the commission a "motion for entry of final appealable order and motion for reconsideration." On June 17, 2020, the commission informed Cox at its regular meeting that it would take no further action on his appeal. On July 17, 2020, Cox filed an appeal in the Mahoning County Court of Common Pleas, purporting to appeal the commission's June 17, 2020 decision. This administrative appeal is the underlying action that Youngstown seeks to enjoin in this prohibition action. The notice of appeal characterized the commission's June 17, 2020 decision as a "purported final order" disposing of Cox's May 2019 civil-service appeal.

#### **B. Cox Unsuccessfully Seeks Extraordinary Relief in This Court**

{¶ 7} In addition to his administrative appeal to the common pleas court, Cox commenced an original action in this court, which sought a writ of mandamus or, alternatively, a writ of procedendo, compelling the commission to (1) convene an evidentiary hearing on his appeal, (2) issue a final, appealable order determining his appeal, and (3) serve him with a copy of the final decision under YCSCR XII. *See Cox*, 165 Ohio St.3d 240, 2021-Ohio-2799, 177 N.E.3d 267, at ¶ 8. The

common pleas court stayed the proceedings in Cox’s administrative appeal pending the outcome of the original action in this court.

{¶ 8} We unanimously denied the writs in *Cox*. *Id.* at ¶ 34. As to Cox’s request for a writ of mandamus or procedendo commanding the commission to enter a final order disposing of his appeal, we denied the writs because the commission had already issued its final order. *Id.* at ¶ 31. We determined that the commission’s July 17, 2019 approval of its minutes from the June 19, 2019 meeting was the final order disposing of Cox’s appeal. *Id.* at ¶ 20, citing *State ex rel. Hanley v. Roberts*, 17 Ohio St.3d 1, 4-5, 476 N.E.2d 1019 (1985). Because the commission’s minutes were the final order rejecting Cox’s appeal, *see* R.C. 2506.01(A) and (C), we found Cox’s request for a writ of mandamus ordering the commission to issue a decision determining his appeal to be moot. *Cox* at ¶ 22.

{¶ 9} We also denied Cox’s request for a writ ordering the commission to serve him with a copy of the decision under YCSCR XII. In doing so, we rejected Cox’s argument that serving him with a copy of the decision was a prerequisite to his ability to commence an appeal. *Id.* at ¶ 23, 25. Under R.C. 2505.07, Cox had to file an administrative appeal with the court of common pleas within 30 days after the entry of the commission’s final order, i.e., by August 16, 2019. *See Cox* at ¶ 26. “R.C. 2505.07 does not require the decision-maker to serve its final order on the affected party in order for that party to institute an appeal in common pleas court.” *Cox* at ¶ 25. We denied Cox’s request for a writ ordering the commission to serve the order in accordance with YCSCR XII, because Cox’s time to appeal the July 17, 2019 final order had long expired, so Cox “would derive no benefit” from such a writ. *Id.* at ¶ 26; *see also id.* at ¶ 31 (also denying writ of procedendo).

**C. Judge Sweeney Does Not Dismiss Cox’s Administrative Appeal**

{¶ 10} After our decision in *Cox*, 165 Ohio St.3d 240, 2021-Ohio-2799, 177 N.E.3d 267, Cox requested a briefing schedule in the administrative appeal that had been stayed in the common pleas court. The commission and the city of

Youngstown moved to dismiss the appeal for lack of jurisdiction, citing its untimeliness and relying on our decision in *Cox*. Cox opposed the motions to dismiss, arguing that his appeal was timely notwithstanding this court’s analysis in *Cox*. Specifically, Cox argued that we had not addressed the impact of the commission’s failure to give Cox actual notice of its decision, as required by YCSCR XII.

{¶ 11} On May 16, 2022, Judge Sweeney denied the motions to dismiss the appeal, agreeing with Cox that the common pleas court should determine the effect of the commission’s undisputed failure to serve him with a copy of its final order. In Judge Sweeney’s view, our decision in *Cox* “did not address this issue arising out of interpretation and application of a *local* rule.” (Emphasis sic.) In her entry, Judge Sweeney characterized the issue before her as follows:

Cox does not dispute that he has 30 days to perfect an administrative appeal from the Commission’s final decision, but his contention is that *either* (1) a final decision has yet to be issued by the Commission on his civil service appeal in writing so as to comply with [YCSCR] XII *or* (2) the action the Commission took within 30 days of the date he commenced this administrative appeal [i.e., the commission’s June 17, 2020 notification to Cox that it would take no further action on his appeal] must be regarded as final disposition of his civil service appeal even if the Commission never served a written copy of that decision on him as required by Rule XII.

(Emphasis sic.) Judge Sweeney also sua sponte remanded the matter to the commission “with instructions forthwith to cause its ‘final’ decision on Cox’s civil service appeal to be reduced to written form and to serve such decision on Cox in accordance with [YCSCR XII].”

{¶ 12} Youngstown appealed Judge Sweeney’s order to the Seventh District Court of Appeals, which dismissed the appeal for lack of a final, appealable order. Youngstown then commenced this action on June 28, 2022, seeking a writ of prohibition “prohibiting Judge Sweeney and the Mahoning County Court of Common Pleas from exercising any judicial authority over the Mahoning County Action and vacating all orders and journal entries issued [in] that case, including the May 16th Order.” Youngstown also named Cox as a respondent.

{¶ 13} Judge Sweeney and the Mahoning County Court of Common Pleas filed a joint motion to dismiss Youngstown’s complaint. Cox filed a separate motion to dismiss. We dismissed the Mahoning County Court of Common Pleas and Cox as respondents. 168 Ohio St.3d 1461, 2022-Ohio-4268, 198 N.E.3d 881. As to Judge Sweeney, we denied her motion to dismiss and granted an alternative writ. *Id.* Youngstown and Judge Sweeney filed merit briefs and a joint stipulation of evidence. Cox has filed an amicus brief urging denial of the writ.

## II. ANALYSIS

{¶ 14} To be entitled to a writ of prohibition, Youngstown must establish that (1) Judge Sweeney has exercised or is about to exercise judicial power, (2) the exercise of that power is unauthorized by law, and (3) denying the writ would result in injury for which no adequate remedy exists in the ordinary course of law. *See State ex rel. State Farm Mut. Ins. Co. v. O’Donnell*, 163 Ohio St.3d 541, 2021-Ohio-1205, 171 N.E.3d 321, ¶ 8.

{¶ 15} If the first two requirements are present, Youngstown need not satisfy the third requirement if jurisdiction is “patently and unambiguously” lacking. *Id.* And when jurisdiction is patently and unambiguously lacking, prohibition will also lie to correct the results of prior actions for which jurisdiction was lacking. *See State ex rel. Mayer v. Henson*, 97 Ohio St.3d 276, 2002-Ohio-6323, 779 N.E.2d 223, ¶ 12.

**A. Judge Sweeney Lacks Jurisdiction Over an Appeal  
from the July 2019 Final Order**

{¶ 16} The gravamen of Youngstown’s claim is that the underlying action pending before Judge Sweeney is an untimely administrative appeal from the commission’s *July 2019* final order. Seizing on our determination that Cox had until August 16, 2019, to appeal from the commission’s final order, *see Cox*, 165 Ohio St.3d 240, 2021-Ohio-2799, 177 N.E.3d 267, at ¶ 26, Youngstown contends that Judge Sweeney patently and unambiguously lacks jurisdiction over Cox’s appeal. Judge Sweeney disagrees, arguing that she retains jurisdiction “to determine that the lack of notice [to Cox] prevented the thirty-day time limit from running and to order what she [finds] to be an appropriate remedy.”

*1. YCSCR XII Is Irrelevant to the Jurisdictional Issue*

{¶ 17} Judge Sweeney maintains that she has jurisdiction over Cox’s administrative appeal from the July 2019 order because our opinion in *Cox* did not address the argument that “*both an order and notice of the order* [are required] to start the clock running for an appeal.” (Emphasis sic.) Judge Sweeney argues that the commission’s failure to serve Cox with its final order under YCSCR XII means that the 30-day period for filing a timely administrative appeal under R.C. 2505.07 has not started to run, meaning that Cox’s appeal from the July 2019 order could be timely.

{¶ 18} Judge Sweeney misreads our decision in *Cox*. We rejected the theory that the commission’s failure to comply with YCSCR XII affected the timeliness of Cox’s appeal from the commission’s July 2019 final order. Indeed, Cox sought an extraordinary writ to compel Youngstown to serve him with written notice of the July 2019 order in accordance with YCSCR XII, under the theory that service of the final order was required before he could commence his appeal. *Cox* at ¶ 8, 12, 23. Thus, this issue was squarely before us in *Cox*. And even though the commission had not complied with YCSCR XII, we declined to grant a writ of

mandamus because the writ would not have benefited Cox. *Id.* at ¶ 26 (“Because the time for Cox’s appeal expired long ago, he would derive no benefit from a writ of mandamus ordering the commission to provide him with written notification of its decision under YCSCR XII(3)”).

{¶ 19} If we had found that the window for filing a timely appeal under R.C. 2505.07 depended on service in accordance with YCSCR XII, a writ of mandamus *would have* benefited Cox. By applying the no-benefit rule to Cox’s situation, we necessarily found that noncompliance with YCSCR XII did not toll his time for filing a notice of appeal from the July 2019 final order of the commission.

2. *A Writ of Prohibition May Bar an Untimely Appeal*

{¶ 20} Judge Sweeney also contends that a writ of prohibition is inappropriate in this case because a court of common pleas has general subject-matter jurisdiction over administrative appeals. Relying on *Bank of Am., N.A. v. Kuchta*, 141 Ohio St.3d 75, 2014-Ohio-4275, 21 N.E.3d 1040, ¶ 19, and *State ex rel. Welt v. Doherty*, 166 Ohio St.3d 305, 2021-Ohio-3124, 185 N.E.3d 1019, ¶ 17, Judge Sweeney argues that a writ of prohibition is appropriate only when a court lacks jurisdiction over a “class of cases,” without regard to the rights of the individual parties involved in the particular case before it. And because R.C. Chapter 2506 confers subject-matter jurisdiction on common pleas courts over administrative appeals, Judge Sweeney argues, a writ of prohibition will not lie in this case.

{¶ 21} Judge Sweeney is incorrect. Our “class of cases” discussions in *Kuchta* and *Welt* were in the context of differentiating between the absence of subject-matter jurisdiction and a court’s exercise of jurisdiction in a particular case. *See Kuchta* at ¶ 19; *Welt* at ¶ 17. “Subject-matter jurisdiction is the power of a court to entertain and adjudicate a particular class of cases,” while “jurisdiction over a particular case refers to the court’s authority to proceed or rule on a case that is within the court’s subject-matter jurisdiction.” *Kuchta* at ¶ 19. It does not follow,



however, that a writ of prohibition can never issue when the court has general subject-matter jurisdiction over a particular class of cases. “[E]ven if the trial court has general jurisdiction over the matter before it, its decision to exercise jurisdiction in a particular instance can be contested in a prohibition action when the lack of jurisdiction in that instance is patent and unambiguous.” *State ex rel. Huntington Natl. Bank v. Kontos*, 145 Ohio St.3d 102, 2015-Ohio-5190, 47 N.E.3d 133, ¶ 20; *see also Ohio High School Athletic Assn. v. Ruehlman*, 157 Ohio St.3d 296, 2019-Ohio-2845, 136 N.E.3d 436, ¶ 9 (a court of common pleas patently and unambiguously lacks jurisdiction when a statute explicitly takes jurisdiction away).

{¶ 22} Timely commencement of an administrative appeal is a prerequisite to a court’s having subject-matter jurisdiction. *See Welsh Dev. Co., Inc. v. Warren Cty. Regional Planning Comm.*, 128 Ohio St.3d 471, 2011-Ohio-1604, 946 N.E.2d 215, ¶ 39-40. Accordingly, we have granted preperemptory writs of prohibition to enjoin courts from exercising jurisdiction over untimely appeals. *See, e.g., State ex rel. Sapp v. Franklin Cty. Court of Appeals*, 118 Ohio St.3d 368, 2008-Ohio-2637, 889 N.E.2d 500, ¶ 25, 32; *State ex rel. T.L.M. v. Judges of the First Dist. Court of Appeals*, 147 Ohio St.3d 25, 2016-Ohio-1601, 59 N.E.3d 1260, ¶ 14. Thus, if Cox has commenced an untimely appeal from the commission’s July 2019 order, a writ of prohibition may issue to prohibit Judge Sweeney’s exercise of jurisdiction over that appeal.

**B. Cox’s Appeal Could Be Timely If It Is from the June 2020 Final Order**

{¶ 23} For the reasons stated above, we reject the arguments of Judge Sweeney and Cox as amicus curiae that the common pleas court has jurisdiction over an appeal from the commission’s July 2019 final order. Our determination that Cox did not timely appeal the commission’s July 2019 final order, however, does not decide the matter before us.

{¶ 24} On its face, Cox’s notice of appeal in the common pleas court, filed on July 17, 2020, does not purport to appeal the commission’s July 2019 order.

Instead, Cox’s notice of appeal states that he is appealing the *June 17, 2020* “decision and purported final order” of the commission, which, among other things, denied his motion for entry of a final, appealable order and his motion for reconsideration of the commission’s decision. Thus, the evidentiary record submitted by the parties shows that Cox has commenced a timely appeal from a purported decision of the commission rendered on June 17, 2020.

{¶ 25} The parties focus most of their attention on whether Cox may appeal the commission’s 2019 decision when we already held in *Cox* that any appeal from that decision is time-barred, 165 Ohio St.3d 240, 2021-Ohio-2799, 177 N.E.3d 267, at ¶ 26. They do not discuss whether the action of the commission on June 17, 2020, is a “final order, adjudication, or decision” that can be appealed under R.C. 2506.01(A) or whether the common pleas court can decide all matters raised in Cox’s notice of appeal, including any issues he attempts to raise related to the commission’s July 2019 final order denying his civil-service appeal. We need not reach these matters, as Judge Sweeney has the judicial power to address them in the first instance. “Absent a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction can determine its own jurisdiction, and a party challenging the court’s jurisdiction has an adequate remedy at law by appeal.” *State ex rel. Enyart v. O’Neill*, 71 Ohio St.3d 655, 656, 646 N.E.2d 1110 (1995).

{¶ 26} Because the parties’ evidence shows that Cox has timely appealed from a purported decision of the commission rendered in June 2020, Judge Sweeney does not patently and unambiguously lack jurisdiction. Any error that may arise from Judge Sweeney’s treatment of Cox’s appeal as being from the commission’s July 2019 decision would be an error in the exercise of jurisdiction, for which Youngstown has an adequate remedy by way of appeal. *See State ex rel. Shumaker v. Nichols*, 137 Ohio St.3d 391, 2013-Ohio-4732, 999 N.E.2d 630, ¶ 14 (prohibition will not lie to prevent an anticipated erroneous judgment).

### III. CONCLUSION

{¶ 27} For the foregoing reasons, Judge Sweeney does not patently and unambiguously lack jurisdiction over the matter before her. We therefore deny Youngstown’s request for a writ of prohibition against Judge Sweeney.

Writ denied.

KENNEDY, C.J., and FISCHER, DONNELLY, STEWART, BRUNNER, and DETERS, JJ., concur.

DEWINE, J., concurs in judgment only.

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Roetzel & Address, L.P.A., Emily K. Anglewicz, and Diana M. Feitl; and J. Jeffrey Limbian, Youngstown Law Director, and Adam V. Buente, Assistant Law Director, for relators.

Gina DeGenova, Mahoning County Prosecuting Attorney, and Linette M. Stratford, Assistant Prosecuting Attorney, for respondent.

Law Offices of S. David Worhatch and S. David Worhatch, urging denial of the writ for amicus curiae, Michael R. Cox.

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