

[J-9-2007]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

IN RE: ADMINISTRATIVE ORDER NO. 1- MD-2003	:	No. 33 MAP 2006
	:	
	:	
	:	Appeal from the Order of the
APPEAL OF: HONORABLE JAMES P. TROUTMAN, CLERK OF COURTS OF THE COURT OF COMMON PLEAS OF BERKS COUNTY	:	Commonwealth Court of Pennsylvania entered September 13, 2005, at No. 902 CD 2004, affirming the Order of the Court of Common Pleas of Berks County, dated March 30, 2004, at No. 1-MD-2003.
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	:	882 A.2d 1049 (Pa. Commw. Ct. 2005)
	:	
	:	ARGUED: March 6, 2007
THE HONORABLE JAMES P. TROUTMAN, CLERK OF COURTS OF BERKS COUNTY,	:	No. 181 MM 2005
	:	
	:	
Petitioner	:	Application for Leave to File Original Process and Petition for Writ of Prohibition
	:	
v.	:	
	:	
COURT OF COMMON PLEAS OF BERKS COUNTY,	:	
	:	
	:	
Respondent	:	

CONCURRING OPINION

MADAME JUSTICE BALDWIN

DECIDED: November 20, 2007

I join the Majority Opinion except to the extent that it determines that a clerk of courts is an officer of the Commonwealth, thus bringing the case within the original jurisdiction of

the Commonwealth Court. The Majority finds that the Commonwealth Court has original jurisdiction over Troutman’s appeal, pursuant to 42 Pa.C.S. § 761(a)(2), which provides “[t]he Commonwealth Court shall have original jurisdiction over all civil actions or proceedings . . . [b]y the Commonwealth Government, including any officer thereof, acting in his official capacity.” This Court has repeatedly interpreted the term “officer of the Commonwealth” to mean “those who perform state-wide policymaking functions and who are charged with responsibility for independent initiation of administrative policy regarding some sovereign function of state government.” Fawber v. Cohen, 516 Pa. 352, 356, 532 A.2d 429, 432 (1987) (citing Balshy v. Rank, 507 Pa. 384, 390, 490 A.2d 415, 417 (1985)).

As the Majority points out, the 1968 amendments to Pennsylvania’s Constitution, creating a unified judicial system, provided, as to clerks and prothonotaries of courts:

Until otherwise provided by law, the offices of prothonotary and clerk of courts shall become the offices of prothonotary and clerk of courts of the court of common pleas of the judicial district, and in multi-county judicial districts of their county's branch of the court of common pleas, . . . and these **officers** shall continue to perform the duties of the office and to maintain and be responsible for the records, books and dockets as heretofore.

PA. CONST. Sched. 1968, § 15 (emphasis added). The Majority would interpret this provision to mean that because the clerk is an officer of the court, he or she is an officer of the Commonwealth, silently overruling a long line of cases requiring “state-wide policymaking functions” and “responsibility for independent initiation of administrative policy,” in order for a public official to be an officer of the Commonwealth. See, Fawber v. Cohen, supra, Balshy v. Rank, supra, Rhines v. Herzel, 481 Pa. 165, 169, 392 A.2d 298, 300 - 01 (1978), Bronson v. Cent. Office Review Comm., 554 Pa. 317, 322, 721 A.2d 357, 359 (1998). The clerk of courts is an administrative arm of the court, constitutionally responsible for keeping “the records, books and dockets” of the court. PA. CONST. Sched.

1968, § 15. This is neither state-wide policy making nor independent initiation of administrative policy. Any initiation of administrative policy is in relation to the clerk's administrative duty to maintain the documents related to the courts, nothing more.

Accordingly, I would find that the Commonwealth Court lacked jurisdiction to hear Troutman's appeal. Because I agree that Troutman lacked standing to bring this case, I would reach the same result as the Majority.