

MAY 08 2026

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ATHENS COUNTY

Candace S. Russell, CLERK
COURT OF APPEALS

State of Ohio, ex rel.	:	Case No. 26CA3
Jonathan R. Flowers, et al.,	:	
	:	
Relators,	:	
	:	
v.	:	<u>JUDGMENT ENTRY</u>
	:	
City of Nelsonville, Ohio et al.,	:	
	:	
Respondents.	:	

Relators filed a quo warranto action asserting that they are the elected City of Nelsonville representatives based on the Nov. 4, 2025 election and that the respondents are wrongfully holding offices in the city. Simultaneously, relators filed a motion for injunctive relief prohibiting all parties from enacting legislation or taking official action until the quo warranto action is resolved. Respondents opposed the motion for injunction. Respondents believe that injunctive relief is an overreach and should not be granted.

Courts of appeals do not have original jurisdiction to grant injunctive relief:

Article IV, Section 2 of the Ohio Constitution grants us original jurisdiction over the following types of cases: quo warranto, mandamus, habeas corpus, prohibition, procedendo, "any cause on review as may be necessary to its complete determination," and cases involving the practice of law. We do not have original jurisdiction under the Ohio Constitution over actions in the nature of declaratory judgment and/or injunction. See *State ex rel. Ohio Civ. Serv. Employees Assn., AFSCME, Local 11, AFL-CIO v. State Emp. Relations Bd.*, 104 Ohio St.3d 122, 2004-Ohio-6363, 818 N.E.2d 688, ¶ 11 ("[N]either the Supreme Court of Ohio nor the Ohio courts of appeals have original jurisdiction over claims for declaratory judgment"); see also *State ex rel. Duncan v. Am. Transm. Sys., Inc.*, 166 Ohio St.3d 416, 2022-Ohio-323, 186 N.E.3d 800, ¶ 7 ("Because the Constitution does not grant the courts of appeals original jurisdiction to * * * grant declaratory, injunctive, or compensatory relief, the court of appeals correctly dismissed those aspects of [the] complaint"). We do, however, have "such jurisdiction as ancillary to other appropriate relief." (Emphasis sic.) *State ex rel. Police Officers for Equal Rights v. Lashutka*, 72 Ohio St.3d 185, 187, 648 N.E.2d

808 (1995). A claim ancillary to other appropriate relief is a “claim that is collateral to, dependent on, or auxiliary to another claim, such as a state-law claim that is sufficiently related to a federal claim to permit federal jurisdiction over it.” Black’s Law Dictionary 312 (11th Ed.2019).

State ex rel. Barr v. Wesson, 2023-Ohio-3028, ¶ 16. We have very limited jurisdiction to grant ancillary injunctive relief that arises expressly from the quo warranto statutes. See R.C. 2733.32 (court may issue an injunction restraining directors of banking association from disposing of assets pending proceedings in quo warranto); R.C. 2733.34 (bank directors may be enjoined from borrowing money for their personal benefit while quo warranto proceedings are pending). However, declaratory or injunctive relief which effectively provides quo warranto relief cannot be used to circumvent a quo warranto action.

Common pleas courts cannot order declaratory or injunctive relief which effectively provides quo warranto relief and thereby circumvent this specialized remedy. Virtually every challenge to another’s title to a public office can be phrased as a declaratory relief action seeking interpretation of some underlying constitutional or legislative provision. If that ploy were allowed, counsel could avoid the mandated quo warranto remedy which must be filed in designated appellate courts. By contrast, a court authorized to decide quo warranto cases can order ancillary injunctive relief to maintain existing conditions while it resolves such an action. (Citations omitted.)

Beasley v. City of E. Cleveland, 20 Ohio App.3d 370, 373 (8th Dist.1984); 79 Ohio Jur.3d Quo Warranto § 65 (“A court authorized to decide quo warranto cases can order ancillary injunctive relief to maintain existing conditions while it resolves such action” but “the court should exercise its discretion sparingly and cautiously”). In *State ex rel. Repp v. Best*, 2023-Ohio-3924, the Supreme Court of Ohio sua sponte dismissed the relator’s request for injunctive relief in a quo warranto action because it determined it lacked jurisdiction to award injunctive relief.

Here relators are not seeking “ancillary injunctive relief” to maintain the status quo.

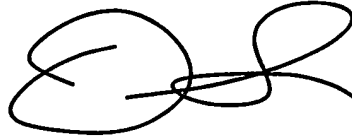
Rather they are seeking prohibitive injunctive relief that is the *functional equivalent* of the relief they are seeking in the quo warranto action. Relators seek to enjoin respondents from acting pending the resolution of the quo warranto action. However, we do not have jurisdiction to issue injunctive relief under the Ohio Constitution, Article IV, § 3. Moreover, R.C. 2733.18 provides that relators, if successful in quo warranto, may bring an action for damages sustained by reason of the ousted parties' usurpation of office. See *Mosque v. Salim*, 2013-Ohio-2746, ¶ 27 (10th Dist.).

Accordingly, the Motion for Injunctive Relief is **DENIED** for lack of jurisdiction.

The clerk is **ORDERED** to serve a copy of this order on all counsel of record and unrepresented parties at their last known addresses by ordinary mail. **IT IS SO ORDERED.**

Abele, J., & Wilkin, J.: Concur.

FOR THE COURT

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a horizontal stroke.

Jason P. Smith
Presiding Judge