

637 Pa. 33
Supreme Court of Pennsylvania.

Adam KUREN and Steven Allabaugh, on Behalf of
Themselves and All Others Similarly Situated,
Appellants

v.

LUZERNE COUNTY of the Commonwealth of
Pennsylvania and Robert C. Lawton, County
Manager, in His Official Capacity, Appellees
Adam Kuren and Steven Allabaugh, on Behalf of
Themselves and All Others Similarly Situated,
Appellants

v.

Luzerne County of the Commonwealth of
Pennsylvania and Robert C. Lawton, County
Manager, in His Official Capacity, Appellees

No. 57 MAP 2015

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No. 58 MAP 2015

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ARGUED: April 6, 2016

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DECIDED: September 28, 2016

Synopsis

Background: Indigent criminal defendants sought writ of mandamus and injunctive relief, alleging that inadequate funding by county of office of public defender deprived indigent defendants of right to counsel. The Court of Common Pleas, Luzerne County, No. 04517, Augello, Senior Judge, dismissed complaint. Criminal defendants appealed. The Commonwealth Court,  Nos. 2072 C.D. 2013, 2207 C.D. 2013, 103 A.3d 125, Leavitt, J., affirmed. The Supreme Court granted allocatur.

Holdings: The Supreme Court, Nos. 57 MAP 2015, 58 MAP 2015, Wecht, J., held that:

^[1] as matter of first impression in Pennsylvania, a cause of action exists entitling a class of indigent criminal defendants to allege prospective, systemic violations of the right to counsel due to underfunding, and to seek and obtain an injunction forcing a county to provide adequate funding to a public defender's office, so long as the class action plaintiffs demonstrate the likelihood of substantial and immediate irreparable injury, and the inadequacy of remedies at law.

^[2] allegations by indigent criminal defendants were sufficient to support complaint for injunctive relief requiring county to provide adequate funding to public defender's office; and

^[3] writ of mandamus was not available to indigent criminal defendants to compel county to provide adequate funding to public defender's office.

Decision of Commonwealth Court affirmed in part, reversed in part; case remanded.

Baer, J., filed a concurring opinion.

West Headnotes (10)

- [1] **Civil Rights**
🔑 Right of Action; Nature and Grounds
Civil Rights
🔑 Injunction

78Civil Rights
78VState and Local Remedies
78k1718Right of Action; Nature and Grounds
78k1721Other particular cases and contexts
78Civil Rights
78VState and Local Remedies
78k1759Injunction
78k1762Other particular cases and contexts

A cause of action exists entitling a class of indigent criminal defendants to allege prospective, systemic violations of the right to counsel due to underfunding, and to seek and obtain an injunction forcing a county to provide adequate funding to a public defender's office, so long as the class action plaintiffs demonstrate the likelihood of substantial and immediate irreparable injury, and the inadequacy of remedies at law. U.S. Const. Amend. 6.

4 Cases that cite this headnote

- [2] **Appeal and Error**
🔑 Objections and exceptions; demurrer

30Appeal and Error
30XVIReview
30XVI(F)Presumptions and Burdens on Review
30XVI(F)2Particular Matters and Rulings
30k3892Pleading
30k3895Objections and exceptions; demurrer
(Formerly 30k917(1))

Upon review of a decision sustaining or overruling preliminary objections, the Supreme Court accepts as true all well-pleaded material facts set forth in the petition for review and all inferences fairly deducible from those facts.

3 Cases that cite this headnote

[3] **Appeal and Error**
🔑Defenses, objections, and exceptions in general

30Appeal and Error
30XVIReview
30XVI(D)Scope and Extent of Review
30XVI(D)3Procedural Matters in General
30k3195Defenses, objections, and exceptions in general
(Formerly 30k863)

The Supreme Court will affirm an order sustaining preliminary objections only if it is clear that the party filing the petition for review is not entitled to relief as a matter of law.

3 Cases that cite this headnote

[4] **Criminal Law**
🔑Right of Defendant to Counsel

110Criminal Law
110XXXICounsel
110XXXI(B)Right of Defendant to Counsel
110XXXI(B)1In General
110k1710In general

The essence of the Sixth Amendment right to counsel is the opportunity for a defendant to consult with an attorney and to have him investigate the case and prepare a defense for trial. U.S. Const. Amend. 6.

[5] **Criminal Law**
🔑Critical stages
Criminal Law
🔑Adversary or judicial proceedings

110Criminal Law
110XXXICounsel
110XXXI(B)Right of Defendant to Counsel
110XXXI(B)2Stage of Proceedings as Affecting Right
110k1718Critical stages
110Criminal Law
110XXXICounsel
110XXXI(B)Right of Defendant to Counsel
110XXXI(B)2Stage of Proceedings as Affecting Right
110k1719Adversary or judicial proceedings

Once the adversary judicial process has been initiated, the Sixth Amendment guarantees a defendant the right to have counsel present at all critical stages of the criminal proceedings. U.S. Const. Amend. 6.

2 Cases that cite this headnote

[6] **Civil Rights**
🔑Injunction

78Civil Rights
78VState and Local Remedies
78k1759Injunction
78k1762Other particular cases and contexts

In setting forth a cause of action for prospective injunctive relief based upon the constructive denial of counsel, to prove the likelihood of substantial and immediate irreparable injury, the plaintiff should focus upon the following factors: (1) when, on a system-wide basis, the traditional markers of representation—such as timely and confidential consultation with clients, appropriate investigation, and meaningful adversarial testing of the prosecution’s case—are absent or significantly compromised; and (2) when substantial structural limitations—such as a severe lack of resources, unreasonably high workloads, or critical

understaffing of public defender offices—cause that absence or limitation on representation. U.S. Const. Amend. 6.

[7]

Injunction

🔑 Prospective, preventive, or future-oriented nature of remedy

212Injunction

212IIInjunctions in General; Permanent Injunctions in General

212I(A)Nature, Form, and Scope of Remedy

212k1006Prospective, preventive, or future-oriented nature of remedy

A suit for an injunction deals primarily, not with past violations, but with threatened future ones; and an injunction may issue to prevent future wrong, although no right has yet been violated.

[8]

Civil Rights

🔑 Pleading

78Civil Rights

78VState and Local Remedies

78k1738Pleading

78k1741Other particular cases and contexts

Allegations by indigent criminal defendants in complaint against county, detailing how office of public defender due to insufficient funding had failed in each of six components of adequate legal representation required by Sixth Amendment right to counsel, were sufficient to support complaint for injunctive relief requiring county to provide adequate funding to public defender's office. U.S. Const. Amend. 6.

3 Cases that cite this headnote

[9]

Mandamus

🔑 Nature and scope of remedy in general

Mandamus

🔑 Existence and Adequacy of Other Remedy in General

250Mandamus

250INature and Grounds in General

250k1Nature and scope of remedy in general

250Mandamus

250INature and Grounds in General

250k3Existence and Adequacy of Other Remedy in General

250k3(1)In general

Mandamus is an extraordinary writ that will only lie to compel official performance of a ministerial act or mandatory duty where there is a clear legal right in the plaintiff, a corresponding duty in the defendant, and want of any other appropriate and adequate remedy.

5 Cases that cite this headnote

[10]

Mandamus

🔑 Counties or towns and their boards or officers

Mandamus

🔑 County or town boards and officers

250Mandamus

250INature and Grounds in General

250k3Existence and Adequacy of Other Remedy in General

250k3(2)Remedy at Law

250k3(5)Counties or towns and their boards or officers

250Mandamus

250IISubjects and Purposes of Relief

250II(B)Acts and Proceedings of Public Officers and Boards and Municipalities

250k65County or town boards and officers

Writ of mandamus was not available to indigent criminal defendants to compel county to provide adequate funding to public defender's office pursuant to Public Defender Act; injunctive relief based on Sixth Amendment right to counsel was adequate remedy at law and provided constructively the same remedy. U.S. Const. Amend. 6; 16 Pa. Stat. Ann. § 9960.10 et seq.

2 Cases that cite this headnote

