

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
MERCER COUNTY**

SHAWNDALE CHILCOAT, ET AL.,

CASE NO. 10-26-12

PLAINTIFFS-APPELLANTS,

v.

**JEFF GREY, FORMER SHERIFF OF
MERCER COUNTY, OHIO,**

**OPINION AND
JUDGMENT ENTRY**

DEFENDANT-APPELLEE.

**Appeal from Mercer County Common Pleas Court
Civil Division
Trial Court No. 26-CIV-024**

Judgment Affirmed

Date of Decision: September 14, 2026

APPEARANCES:

Shawndale D. Chilcoat and Donald E. Chilcoat, Appellants

Amy B. Ikerd for Appellee

WALDICK, J.

{¶1} Plaintiffs-appellants, Shawndale Chilcoat and Donald Chilcoat (“the Chilcoats”), appeal the April 1, 2026 judgment of the Mercer County Court of Common Pleas dismissing their petition for amercement filed against defendant-appellee, Jeff Grey (“Grey”). On appeal, the Chilcoats argue that the trial court erred in granting the Civ.R. 12(B)(6) motion to dismiss filed by Grey. For the reasons set forth below, we affirm.

Facts and Procedural History

{¶2} On February 11, 2026, the Chilcoats filed a pro se petition for amercement in the trial court against Grey, the former Sheriff of Mercer County. In the petition, the Chilcoats asserted that Grey is liable under Ohio’s amercement statutes for his alleged failure to “receive, process, and maintain lawful custody of arrested persons and seized property on Mercer County soil, and to supervise and ensure deputies and task-force participants under his command complied with those duties.” (Petition for Amercement, Docket No. 3).

{¶3} On February 20, 2026, Grey filed a motion pursuant to Civ.R. 12(B)(6), seeking to dismiss the Chilcoats’ petition on the basis that it failed to state a claim upon which relief can be granted.

{¶4} On March 3, 2026, the Chilcoats filed a response in opposition to Grey’s motion to dismiss.

{¶5} On April 1, 2026, the trial court filed a judgment entry granting the motion to dismiss filed by Grey.

{¶6} On April 29, 2026, the Chilcoats filed this appeal, in which they raise six assignments of error.

First Assignment of Error

The trial court erred by dismissing the Petition under Civ.R. 12(B)(6) after resolving disputed factual issues concerning custody, control, responsibility, transfer, officer identity, warrant verification, agency participation, notice, and legal duty against Plaintiffs-Appellants.

Second Assignment of Error

The trial court erred by reframing Plaintiffs-Appellants' statutory Petition for Amercement as a simple present-possession dispute instead of addressing the pleaded theory concerning accountability, seizure, custody, accounting, arrest processing, detention consequences, extradition consequences, transfer, retention, supervision, return, officer identification, and mandatory ministerial duties.

Third Assignment of Error

The trial court erred by accepting Defendant's federal-only narrative without identifying any federal law that expressly preempted, displaced, suspended, or nullified Ohio-law duties.

Fourth Assignment of Error

The trial court erred by treating missing or unresolved process, returns, custody records, transfer records, officer-identification records, warrant-verification records, and accountability documents as defeating the Petition where Plaintiffs-Appellants pleaded that the failure to create, preserve, identify, file, return,

certify, reconcile, or produce those records was itself part of the breach.

Fifth Assignment of Error

The trial court erred by permitting Defendant's res judicata and vexatious-litigator narrative to collapse distinct proceedings even though this case was preserved as a statutory Petition for Amercement and paid under protest.

Sixth Assignment of Error

The trial court's dismissal deprived Plaintiffs-Appellants of meaningful access to judicial review under Ohio Constitution, Article I, Section 16, and the Fourth, Fifth, and Fourteenth Amendments.

Analysis of Assignments of Error

{¶7} In the six assignments of error, which this Court shall collectively address, the Chilcoats assert that, for various reasons, the trial court erred in dismissing their petition for amercement pursuant to Civ.R. 12(B)(6).

Civ.R. 12(B) provides in relevant part:

Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion:

* * *

(6) [f]ailure to state a claim upon which relief can be granted[.]

{¶8} A Civ.R. 12(B)(6) motion to dismiss for failure to state a claim upon which relief can be granted is procedural and tests the legal sufficiency of the

complaint. *State ex rel. Hanson v. Guernsey County Bd. of Comm'rs.*, 1992-Ohio-73, ¶ 9. For a trial court to dismiss a complaint on that basis, “it must appear beyond doubt from the complaint that the plaintiff can prove no set of facts entitling him to recovery.” *O'Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242, syllabus (1975).

{¶9} If there is a set of facts consistent with the plaintiff's complaint that would allow for recovery, the court must not grant the motion to dismiss. *York v. Ohio State Hwy. Patrol*, 60 Ohio St.3d 143, 145 (1991). In considering a Civ.R. 12(B)(6) motion to dismiss, the court's review is limited to the four corners of the complaint. *State ex rel. New Riegel Local School Dist. Bd. of Educ. v. Ohio School Facilities Comm.*, 2017-Ohio-875, ¶ 10 (3d Dist.).

{¶10} Appellate courts conduct a de novo review of trial court decisions granting a Civ.R. 12(B)(6) motion to dismiss. *Perrysburg Twp. v. City of Rossford*, 2004-Ohio-4362, ¶ 5. “On review, ‘[t]he allegations of the complaint must be taken as true, and those allegations and any reasonable inferences drawn from them must be construed in the nonmoving party's favor.’” *Faber v. Seneca Cty. Sheriff's Dept.*, 2018-Ohio-786, ¶ 7 (3d Dist.), quoting *Ohio Bur. of Workers' Comp. v. McKinley*, 2011-Ohio-4432, ¶ 12. However, a court need not accept as true any unsupported and conclusory legal propositions advanced in a complaint. *Bullard v. McDonald's*, 2021-Ohio-1505, ¶ 11 (10th Dist.), citing *Morrow v. Reminger & Reminger Co.*

LPA, 2009-Ohio-2665, ¶ 7 (10th Dist.). Dismissing an action for failure to state a claim upon which relief can be granted may be warranted “when a complaint is frivolous or the claimant obviously cannot prevail on the facts alleged in the complaint.” *State ex rel. Scott v. City of Cleveland*, 2006-Ohio-6573, ¶ 14.

{¶11} In the instant case, following this Court’s de novo review of the Chilcoats’ petition and upon application of the law relevant to the Civ.R. 12(B)(6) dismissal, we conclude that the trial court correctly determined that dismissal pursuant to Civ.R. 12(B)(6) was warranted.

{¶12} This case involves the dismissal of a petition for amercement, which is a special remedy outlined in R.C. Chapter 2707. “To amerce is to punish.” *Ryan v. Carter*, 67 Ohio St.3d 568, 569 (1993), citing 1 *Oxford English Dictionary* 396-397 (2d Ed. 1989). In *Ryan*, the Supreme Court of Ohio characterized amercement as a “seldom-used remedy”, and noted that “it is questionable why this archaic procedure remains[.]” *Id.*, at 569. However, the Ohio Supreme Court further stated that Ohio courts “will enforce R.C. Chapter 2707 until the General Assembly removes it from the books.” *Id.*

{¶13} R.C. Chapter 2707 contains two sections setting forth the circumstances under which amercement is available as a remedy to be imposed against an officer.

R.C. 2707.01 provides:

If an execution or order of sale directed to an officer comes to his hands to be executed, and he neglects or refuses to execute it; or if he neglects or refuses to sell property of any kind which, by a writ or order, he is directed to sell; or fails to call an inquest, or to return to the clerk's office a copy of the certificate of appraisement made by the inquest; or neglects to return to the proper court an execution or order of sale to him directed on or before the return day thereof; or neglects to return a correct inventory of personal property taken on execution unless he returns that the amount of the judgment, including costs, has been paid to him; or neglects, on demand, to pay to the person entitled thereto, money by him collected or received for the use of such person; or neglects or refuses, on demand, to pay the judgment debtor all money by him received on sale made, beyond what is sufficient to satisfy the writ or order of sale, with interest and costs, on motion in court, and notice thereof, in writing, as provided in section 2707.02 of the Revised Code, such officer shall be amerced in the amount of such judgment, including costs, with ten per cent thereon, to and for the use of the plaintiff or defendant.

R.C. 2707.03 provides:

If an officer fails to execute a summons, order, execution, or other process directed to him, or to return it, as required by law, unless he makes it appear, to the satisfaction of the court, that he was prevented by unavoidable accident from so doing, he shall be amerced, upon motion and notice, as provided in sections 2707.01 and 2707.02 of the Revised Code, in a sum not exceeding one thousand dollars, and be liable to the action of any person aggrieved by such failure. Such officer is not liable to an action or amercement for a failure to execute such process directed to him from a county other than that in which he was elected, unless his fees are deposited with the clerk who issued the process, and an indorsement is made and subscribed by such clerk thereon at the time of its issue, in these words: "Funds are deposited to pay the sheriff on this process."

{¶14} "The amercement statute is highly penal in nature." *Takacs v. Baldwin*, 106 Ohio App.3d 196, 204 (6th Dist. 1995), citing *Ryan v. Carter*, *supra*, at 569; *Langdon v. Summers' Admr.*, 10 Ohio St. 77, paragraph two of the syllabus

(1859); *Rodgers v. Rodgers*, 74 Ohio App. 3d 580, 583 (1991). “Because the amercement statute is penal in nature, it must be construed in favor of the execution officer.” *Takacs* at 206, citing *Webb v. Anspach*, 3 Ohio St. 522 (1854); *Borst v. Donnelly*, 3 Ohio L. Abs. 21 (1924). “Before a sheriff can be subjected to the statute’s penalties, it must be proven that the sheriff’s alleged neglect falls not only within the letter but also the spirit of the statute.” *Takacs* at 206, citing *Langdon v. Summers’ Admr.*, *supra*, paragraph two of the syllabus.

{¶15} In the case before us, the Chilcoats’ petition for amercement reads as follows, omitting the caption and signatures:

PETITION FOR AMERCEMENT

R.C. 2707.01, 2707.03, 2707.05

Shawndale Chilcoat and Donald Chilcoat ask the Court to amerce Jeff Grey, Sheriff of Mercer County at the time, individually.

Respondent had statutory duties imposed by law, including but not limited to R.C. 311.07, Crim.R. 4, and Crim.R. 41, to receive, process, and maintain lawful custody of arrested persons and seized property on Mercer County soil, and to supervise and ensure deputies and task-force participants under his command complied with those duties.

He failed.

Those duties were ministerial, mandatory, and non-discretionary.

Penalty: full value of the matter neglected – including custody, processing, detention, and property withheld – plus ten percent thereon and interest, pursuant to R.C. 2707.03; liability up to the full amount of Respondent’s official bond, R.C. 311.02.

(Petition for Amercement, Docket No. 3).

{¶16} Thus, a review of the petition reflects that it alleges merely that Grey, at some unspecified time when he was the Sheriff of Mercer County, failed “to receive, process, and maintain lawful custody of arrested persons and seized property on Mercer County soil, and to supervise and ensure deputies and task-force participants under his command complied with those duties.” That allegation sets forth no facts falling within the criteria for amercement found in R.C. 2707.01 or R.C. 2707.03, *supra*. Put another way, the petition does not allege, pursuant to R.C. 2707.01, the existence of any writ of execution or order of sale directed at Grey that he failed to execute as ordered, any failure on his part to call an inquest, any failure to return a correct inventory of personal property taken on execution of judgment, or any other failure to comply with an order relating to an execution of judgment. Nor does the petition allege, pursuant to R.C. 2707.03, that Grey failed to execute a summons, order, execution, or other process directed to him, or to return it, as required by law.

{¶17} As the Chilcoats’ petition for amercement fails to allege, much less identify supporting facts with any particularity, that Grey breached any duty set forth in the amercement statutes, the trial court did not err in dismissing the petition pursuant to Civ.R. 12(B)(6) for failing to state a claim upon which relief can be granted.

{¶18} The six assignments of error are overruled.

Conclusion

{¶19} Having found no error prejudicial to the plaintiffs-appellants in the particulars assigned and argued, the April 1, 2026 judgment of the Mercer County Court of Common Pleas is affirmed.

Judgment affirmed

ZIMMERMAN, P.J., and MILLER, J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignments of error are overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellants for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. See App.R. 30.

Juergen A. Waldick, Judge

William R. Zimmerman, Judge

Mark C. Miller, Judge

DATED:
/jlm