



## I. INTRODUCTION

Relators seek a writ of prohibition to prevent Respondent Clerk and Respondent Hearing Examiners from usurping and abusing judicial power and authority conferred by the General Assembly, in the exercise of its exclusive authority under Sec. 1, Art. IV of the Ohio Constitution, upon municipal courts (under R.C. 1901.20) and parking violations bureaus (under R.C. 4521.04, 4521.05). Pursuant to its exclusive Article IV authority, the General Assembly established municipal courts and vested them with “jurisdiction of the violation of any ordinance of any municipal corporation” excepting from that grant only those municipal ordinance violations that are “required to be handled by a parking violations bureau . . . pursuant to Chapter 4521 of the Revised Code.” (R.C. 1901.20(A)(1), emphasis added.) Pursuant to that same exclusive Article IV authority, the General Assembly established parking violations bureaus (R.C. Ch. 4521.04) and vested them with “jurisdiction over each parking infraction that is a violation of an ordinance” (R.C. 4521.05, emphasis added), which ordinance violations would otherwise be within the jurisdiction of municipal courts under R.C. 1901.20(A)(1). Parking violations bureaus have no other jurisdiction.

Respondent City of Cleveland (“Respondent Cleveland”) established the Cleveland Parking Violations Bureau (“PVB”) pursuant to R.C. 4521.04. Through its Violations Clerk, Respondent Earle B. Turner, (“Respondent Clerk”) and Respondent Hearing Examiners, Brian Mahon and Verlin Peterson (“Respondent Hearing Examiners”), the PVB has exercised and continues to exercise jurisdiction over violations of the City’s speeding and red light ordinances, including the collection of fines and other penalties, and the adjudication of appeals from tickets issued for violations of such ordinances.

Relators and others similarly situated have received tickets and notices of alleged violations of Respondent Cleveland's speeding and red light ordinances from the PVB, have paid fines and other penalties to the PVB, and/or face further PVB action for alleged violations of those speeding and red light ordinances.

The PVB's jurisdiction is confined solely and exclusively to parking infractions. It has no jurisdiction over speeding and red light ordinance violations. Accordingly, Relators seek a writ of prohibition to prevent Respondents Clerk and Hearing Examiners from continuing to exercise jurisdiction on behalf of the PVB over speeding and red light ordinance violations that is patently and unambiguously beyond the narrowly limited jurisdiction over parking infractions conferred upon the PVB by the General Assembly. Jurisdiction over speeding and red light ordinance violations has been vested by the General Assembly in the municipal courts under R.C. 1901.20(A)(1), moreover, the PVB's exercise of authority over those ordinance violations unlawfully encroaches on the municipal courts' judicial power and is the proper subject of the requested writ of prohibition for that additional reason.

For the reasons set forth more fully below and in the Relators' Memorandum In Support of Peremptory and Alternative Writs of Prohibition and Peremptory and Alternative Writs of Mandamus filed on February 10, 2011, this Court should issue a writ of prohibition. It is necessary to prevent Respondents' usurpation of the jurisdiction of the Cleveland Municipal Court, R.C. 1901.20(A)(1), *State ex rel. Carmody v. Justice* (1926), 114 Ohio St. 94, 97, 150 N.E. 430, to prevent future unauthorized exercise of jurisdiction over violations of Respondent Cleveland's speeding and red light ordinances, and to correct the results of previous jurisdictionally unauthorized actions. *State ex rel. Stern v. Mascio* (1998), 81 Ohio St.3d 297, 298-299, 691 N.E.2d 253, and to keep the PVB within the limits of its jurisdiction. In addition,

this Court should also issue a writ of mandamus directing that all money collected by the PVB for alleged violations of Respondent Cleveland's speeding and red light ordinances be restored to those from whom it was illegally collected by the PVB.

Respondents stipulate that the speeding and red light ordinance violations over which the PVB is exercising jurisdiction "do not involve parking laws regulated by R.C. Chapter 4521 and R.C. 4521.04." (Motion of Respondents to Dismiss – "M" - at 22). They also stipulate that the conduct of Respondents Clerk and Hearing Examiners in furtherance of the PVB's exercise of jurisdiction over speeding and red light ordinance violations "does not relate to their ... parking enforcement duties arising under ... Chapter 4521 of the Ohio Revised Code." (*Id.*)

Respondents insist that the PVB can exercise jurisdiction over speeding and red light ordinance violations because Respondent Cleveland has, pursuant to its home-rule authority under Sec. 3, Art. XVIII of the Ohio Constitution, enacted an ordinance (Cleveland Codified Ordinances Section 413.031 or "Section 413.031") granting it such authority. But this Court has repeatedly held that whatever authority the municipalities of Ohio may possess, under Article XVIII or otherwise, they have no power to regulate the administration of justice or jurisdiction of courts established by the Constitution or by the General Assembly under its exclusive Article IV powers. *E.g. Cupps v. Toledo* (1959), 170 Ohio St. 144, paragraph one of the syllabus, 163 N.E.2d 384.

Respondents also argue that *Mendenhall v. City of Akron*, 117 Ohio St.3d 33, 2008-Ohio-270, 881 N.E.2d 255, and *State ex rel. Scott v. City of Cleveland*, 112 Ohio St.3d 324, 2006-Ohio-6573, 859 N.E.2d 923, are dispositive of Relators' claims. In fact, neither case addressed or resolved the issues presented by Relators here. Both cases were decided under Sec. 3, Art. XVIII, of the Ohio Constitution with reference to the general powers of local self-government

granted to Ohio's municipalities, and upheld the authority of Ohio's municipalities in the exercise of such powers to enact ordinances establishing civil liability and penalties for violations of municipal traffic ordinances. The General Assembly's exclusive Article IV power "supersedes the general power of local self-government" granted to municipalities by Article XVIII. *State ex rel. Cherrington v. Hutsinpillar* (1925), 112 Ohio St. 468, 474, 147 N.E. 647 (emphasis added).

Relators do not challenge Respondent Cleveland's authority to **enact** a municipal ordinance authorizing civil penalties for speeding and red light violations. They challenge the unlawful and unauthorized judicial and quasi-judicial power that has been and continues to be exercised by the PVB through Respondents Clerk and Hearing Examiners in enforcing the City's speeding and red light ordinances.

This is not a home rule case. Relators do not ask this Court to scrutinize the Respondents' conduct under the lens of the Home-Rule Amendment, for that provision of the Ohio Constitution is completely irrelevant. The Constitution vests in the General Assembly the exclusive authority to create the municipal courts and parking violations bureaus of this State, and to determine their jurisdiction. No matter what the outcome of a home rule analysis has been or may be of the conduct for which Relators seek writs of prohibition and mandamus, that outcome cannot alter the clear text of the Ohio Constitution or this Court's well-settled Article IV jurisprudence.

For the following reasons, Respondents' Motion to Dismiss must be denied.

## II. STATEMENT OF FACTS

For purposes of consideration of Respondents' Motion to Dismiss, the relevant factual allegations set forth in the Complaint are straightforward:

Section 433.03 of Cleveland's Codified Ordinances addresses maximum speed limits.<sup>1</sup> Complaint, {¶¶ 6, 12}<sup>2</sup>. Section 413.03 of Cleveland's Codified Ordinances addresses traffic control signals (i.e., red lights). {¶¶ 6, 12} Section 413.031 of Cleveland's Codified Ordinances provides for the civil enforcement of certain violations of Sections 433.03 and 413.03. {¶6} Under §413.031, instead of being adjudicated by the Cleveland Municipal Court, violations of §413.031 are adjudicated by Respondent Earle B. Turner, as Clerk of Courts for the Cleveland Municipal Court and the Violations Clerk for the Cleveland Parking Violations Bureau ("Respondent Clerk") and by Respondents Brian Mahon and Verlin Peterson, as hearing examiners for the Cleveland Parking Violations Bureau ("Respondent Hearing Examiners"), {¶6} both appointed by Respondent Clerk pursuant to Section 459.03(b) of Cleveland's Codified Ordinances. {¶¶ 6, 13} Specifically, said Respondents are adjudicating civil §413.031 speeding and red light ordinance violations, entering judgments therefor on the records of the Parking Violations Bureau ("PVB"), receiving money in satisfaction of such civil §413.031 speeding and red light ordinance violations judgments in the PVB, all as set forth in the Complaint, and in particular, in the Affidavit of Relator Goldstein, attached to the Complaint as **Ex. C**.

Relator Anthony C. Christoff ("Relator Christoff"), who has received a Notice of Liability under Section 413.031 for alleged violations of Sections 433.03 and 413.03 (a copy of which is attached to the Complaint as Exhibit "B"), seeks a writ of prohibition preventing Respondent Clerk and Respondents Hearing Examiners from continuing to unlawfully exercising judicial power over his alleged ordinance violations, and to correct the results of prior actions taken without jurisdiction. On or about November 10, 2010, Relator Goldstein, the class

---

<sup>1</sup>All of the Sections of Respondent Cleveland's Charter and all of Respondent Cleveland's Codified Ordinances referred to in this Memorandum are attached as Exhibit A to the Complaint.

<sup>2</sup> Hereafter, Complaint paragraphs shall be referenced, thus: {¶#.}

representative, paid to Respondent Clerk the sum of Four Hundred Dollars (\$400.00) as evidenced by **Exhibit C to the Complaint**, in satisfaction of four (4) Notices of Liability for alleged violations of §413.031, true copies of the first pages of three of which, with Relator Goldstein's Affidavit, are also attached hereto as part of Exhibit C to the Complaint, and an additional Notice of Liability that has been misplaced. Relator Goldstein, on behalf of himself and a class of all similarly situated Relators who have had monies exacted from them by Respondent Clerk and Respondent Hearing Examiners through the unlawful exercise of judicial power under Section 413.031, seeks a writ of mandamus compelling Respondent Cleveland, Respondent Clerk, Respondent Director of Finance, and Respondent Treasurer to restore these monies to the appropriate Relators in the appropriate amounts as determined by the records that Respondent Clerk is required to maintain under R.C. 1901.31(G), R.C. 4521.07(E), and R.C. 4521.08(C), less reasonable attorneys' fees and costs.

## LAW AND ARGUMENT

### III. SUMMARY OF ARGUMENT.

The Complaint alleges facts sufficient to state the elements of Relators' prohibition and mandamus claims. All parties agree that for motion to dismiss purposes those facts must be presumed true, including all inferences they reasonably support. Respondents' Motion has not overcome these presumptions.

Relators' claims are not controlled by this Court's decisions in either *State ex rel. Scott v. Cleveland*, 112 Ohio St.3d 324, 2006-Ohio-6573, 859 N.E.2d 923 or *Mendenhall v. City of Akron*, 117 Ohio St.3d 33, 2008-Ohio-270, 881 N.E.2d 255. Respondents therein occupied different capacities. Also, those cases addressed only whether the respondent cities patently and unambiguously lacked jurisdiction, under their "home rule" powers, to **establish and impose**

**civil penalties** for violations of the City's speeding and red-light ordinances. Respondents' jurisdiction here to exercise powers not conferred on them by R.C. 1901.20(A)(1) or R.C. Chapter 4521 was neither at issue nor decided in *Scott* or *Mendenhall*.

Moreover, the General Assembly's exclusive power to create municipal courts (Sec. 1, Art. IV, Ohio Constitution), which includes the power to determine their jurisdiction, supersedes the general power of local self-government by municipalities under Section 3, Article XVIII. Thus, municipalities have no power by ordinance to establish courts, to regulate the administration of justice, or to affect appellate rights. The PVB's enabling statutes, i.e., R.C. Chap. 4521, emanate from the General Assembly's exclusive Constitutional power to fashion the exercise of the State's judicial powers.

In R.C. Chap. 4521, the General Assembly created a PVB and the offices of Respondent Hearing Examiners therein. The General Assembly authorized those officers to exercise a limited portion of a municipal court's judicial power, from R.C. 1901.20, over civilly enforceable parking infractions. That judicial power's Art. IV roots preclude its alteration by any municipal ordinance originating from Art. XVIII, §3's home rule powers. This is why Respondent Hearing Officers act unlawfully when they exercise any authority not expressly given to them by the General Assembly, including that purportedly given by Section 413.031. Indeed, even among "creatures of statute," which can exercise only such powers as are expressly delegated by statute, the PVBs and their officers are a specialized and strictly limited type.

The writ of prohibition's purpose is to prevent the imminent exercise by judicial bodies of judicial or quasi-judicial powers which they do not possess. Respondents continue to exercise powers in excess of the limited judicial powers not conferred on them by the General Assembly under R.C. 4521.04 and .05, which judicial powers remain with the municipal court. R.C.

1901.20(A)(1). Prohibiting these acts remains justified. The writ of mandamus Relators seek also remains justified, regardless whether the requested writ of prohibition issues.

IV. **RESPONDENTS' MOTION TO DISMISS RELATORS' CLAIMS SUPPORTS THE MERITS OF THOSE CLAIMS AND MISTAKES THIS COURT'S PRIOR "CAMERA" CASES AS CONTROLLING AUTHORITY.**

- A. Respondents concede that their actions concerning speeding and traffic signal ordinance violations are in excess of their statutory judicial powers, a concession which supports and forms the very core of Relator Christoff's claim in prohibition, and which requires denying Respondents' Motion to Dismiss.

Respondents have conceded to this Court that “[s]peeding and failing to stop at traffic signals do not involve parking laws regulated by R.C. Chapter 4521 and R.C. 4521.04.” (M. at 22.) And yet Respondents, whose authority to act in their capacity as PVB officers comes *solely* from R.C. Chapter 4521, continue to exercise authority over such speeding and traffic signal violations (purportedly pursuant to Section 413.031). That they are transgressing the limits on their judicial powers in precisely this way is the lynchpin of Relator Christoff's claim in prohibition. (See e.g., Complaint, pars. 27-32, 42, 52.)

The “parking law” limits Respondents here recognize to their judicial powers are in fact established as a matter of Constitutional law. Section 1, Article IV of the Constitution provides:

The judicial power of the state is vested in a supreme court, courts of appeals, courts of common pleas and divisions thereof, *and such other courts inferior to the supreme court as may from time to time be established by law.* (emphasis added)

“Established by law” means established by the General Assembly, not by the legislative body of a municipal corporation. *State ex rel. Ramey v. Davis* (1929), 119 Ohio St. 596, 599, 165 N.E.2d 298. And the power to create a court carries with it the power to define its jurisdiction. *Id.*

The General Assembly's exclusive power under Art. IV, §1 to create municipal courts “*supersedes* the general power of local self-government, as granted in Section 3, Article XVIII” to municipalities. *State ex rel. Cherrington v. Hutsinpiller* (1925), 112 Ohio St. 468, 474, 147

N.E.2d 647. That Art. IV power includes the power to determine municipal court jurisdiction. *State ex rel. Ramey v. Davis* (1929), 119 Ohio St. 596, 165 N.E. 298. Thus, “[m]unicipalities have no power to establish courts or regulate the administration of justice[,]” or to affect appellate rights by ordinance. *In re Fortune* (1941), 138 Ohio St. 385, 388, 35 N.E.2d 442 (emphasis added); see also *Cupps v. Toledo* (1959), 170 Ohio St. 144, 163 N.E.2d 384.

Accordingly, the General Assembly enacted R.C. Chap. 4521, by which it permitted exaction from the municipal court of a limited portion of its judicial power and reposed only that limited jurisdiction in a parking violations bureau. R.C. 4521.04(A)(1). This carve-out of limited judicial power was designed by the General Assembly to address **only** parking ordinance violations:

If a parking violations bureau or a joint parking violations bureau is established pursuant to section 4521.04 of the Revised Code, notwithstanding any other provision of law to the contrary, the bureau or joint bureau ***has jurisdiction over each parking infraction*** that is a violation of an ordinance, resolution, or regulation of any local authority . . . . (emphasis added)

R.C. 4521.05(A). The jurisdiction over the violation of any other ordinance remains within the municipal court. That same subsection authorizes the appointment of Respondent Hearing Officers and Clerk to exercise this limited judicial authority. But the General Assembly retains exclusive control over this bureau’s powers. Section 1, Article IV of the Ohio Constitution. Because they are “creatures of statute” created pursuant to Ohio Const. Art. IV, §1 authority, parking violations bureaus “can exercise only such powers as are expressly delegated by statute and only such implied powers as are necessary to carry into effect the powers expressly delegated.” *State ex rel. Kuntz v. Zangerle* (1935), 130 Ohio St. 84, 197 N.E. 112; see, also, *New Bremen v. PUC* (1921), 103 Ohio St. 23, 132 N.E. 162.

The parties agree that Respondents' speeding and red light activities exceed their express statutory authority. Such activities are rightly subject to a writ of prohibition on this basis.

B. Respondents have failed to discern the fundamental distinctions rendering *Scott* and *Mendenhall* not controlling of Relators' claims herein.

Respondents mistakenly contend that this Court's decisions in *Scott* and *Mendenhall* are controlling law here. (M. at 12-13, 16, 18-19.) *Neither* case is dispositive of Relators' claims. The substantive legal issues presented in this case were neither presented nor addressed in *Scott*, and the relief Relators seek here differs from that sought by the *Scott* relators. Respondents' contrary arguments ignore both *Scott's* holding and the specific claims in Relators' Complaint.

The issue presented here is whether this Court can by a writ of prohibition prevent Respondents *Clerk and Hearing Examiners'* exercise of judicial authority not granted to them by the General Assembly. The issue presented in *Scott* was whether this Court would by a writ of prohibition prevent the City's exercise of its home rule power to establish and **impose civil penalties** for violations of the City's speeding and red-light ordinances:

This is an appeal from a judgment dismissing a petition for a writ of prohibition challenging the validity of a municipal ordinance authorizing civil penalties against owners of automobiles that have been photographed by an automated-camera system that detects and photographs cars that run red lights or speed. Because the city does not patently and unambiguously lack jurisdiction to impose these penalties, we affirm.

*Scott*, ¶ 1 (emphasis added). The questions this case answered are not being asked here.

Relators do not question the City's home rule power to enact or enforce civil penalties for speeding and red light ordinance violations. Instead, Relators have alleged and shown that Respondent Clerk and Respondent Hearing Examiners have exercised, are exercising, and/or are about to exercise judicial power that they do not possess over such ordinance violations. *Scott* never reached this issue. In *Scott*, this Court vindicated the City's home rule power to establish

the subject ordinance violations without reviewing *Respondents'* exercise of *judicial* power not conferred by the General Assembly, a matter on which the City's home rule power has no bearing. *State, ex rel. Cherrington v. Hutsinpillar* (1925), 112 Ohio St. 468, 472; *Cupps v. City of Toledo* (1959), 170 Ohio St. 144, Syllabus paragraph 1; *State, ex rel. Ramey v. Davis* (1929), 119 Ohio St. 596, Syllabus paragraph 2.

In vindicating the City's "home rule" authority in *Scott*, the Court found that the City did not "patently and unambiguously lack jurisdiction to impose" civil penalties under its "home rule" power. *Scott*, at ¶17. The jurisdictional inquiry here, however, is entirely different. The General Assembly has under R.C. 1901.20(A)(1) conferred judicial power on the State's municipal courts over the "violation of any ordinance." The General Assembly has also authorized that at the request of a municipality, the State's municipal courts shall allocate a portion of their judicial power, i.e., over the enforcement of civil parking violations, to a parking violations bureau. R.C. 4521.05. Those bureaus are themselves "creatures of statute" and were established by the General Assembly under its sole Ohio Const. Art. IV, §1, authority for this purpose alone. R.C. 4521.04.<sup>3</sup>

Respondents, the statutory Clerk and Hearing Examiners of the City's Parking Violations Bureau, are now exercising additional judicial powers which they claim to have received under Section 413.031 of the City's codified ordinances. Those additional judicial powers usurp those retained by the municipal court over the violation of any ordinance, and exceed those conferred on Respondents by the General Assembly under R.C. 4521.05. The legal question is whether Respondents "patently and unambiguously lack jurisdiction" to exercise judicial powers not

---

<sup>3</sup> Indeed, the General Assembly further specified that appeals from the PVB's determinations are to be made to either the County Court or to the Municipal Court with territorial jurisdiction. R.C. 4521.08(D).

granted to them by the General Assembly. Once again, the Court never reached this issue in *Scott*, and it is not resolvable by reference to the *Struthers v. Sokol* (1923), 108 Ohio St. 263 test, which would be used only to ascertain a conflict between Section 413.031 and any general laws. See *Scott*, at ¶ 20.

Indeed, Relators' Complaint was fashioned by just such a careful reading of this Court's *Scott* decision. In rejecting Scott's request for a writ prohibiting the City's enforcement of Section 413.031, this Court relied in part on *State ex rel. Sferra v. Girard* (Ohio App. 11 Dist.), 2006-Ohio-1876, which had also denied prohibition relief in a challenge to the legality of Ordinance No. 7404-05, i.e., the City of Girard's camera violation counterpart to Section 413.031. *Scott*, ¶ 23. The *Sferra* court noted in its opinion that (with emphasis added):

[T]he primary entities named by relator as respondents in this matter were the City of Girard and its City Council. Even though the captions of both petitions filed by relator refer to the "Automated Traffic Enforcement Division" of the City's Police Department, she did not name as a distinct party the "hearing officer" who has the duty under Ordinance No. 7404-05 to consider submissions which are intended to establish exceptions to liability. In regard to this point, this court would indicate that, of all the procedure delineated in the new ordinance, ***the procedure to be followed by the hearing officer obviously comes the closest to being "judicial" in nature. Despite this, relator chose not to designate the hearing officer as a separate party against whom the requested writ would lie.***

More importantly, our review of both petitions before us shows that relator did not frame her allegations and request for relief in a manner which focused solely on the function of the hearing officer. That is, in bringing this action, relator has not exclusively sought to stop the hearing officer from exercising the limited authority granted to his position in the new ordinance. Instead, she has essentially sought to enjoin the City of Girard from enforcing any of the procedures delineated in the ordinance, including those pertaining to the use of the "speeding camera" system and the collection of the civil sanctions. (emphasis added)

*Sferra*, ¶¶ 16-17.

Relators drew on *Scott* and on *Sferra* in drafting their Complaint in order to address the foregoing defects. First, the hearing officers are named among the Respondents in this case.

They were not named respondents in either *Scott* or *Sferra*. As stated in *Sferra* though, it is they, not the City, whose exercise of judicial authority is the proper object of an action in prohibition. That makes Respondents here proper subjects of the writ of prohibition Relators seek.

Second, R.C. Chapter 4521 created and defined the jurisdiction of Parking Violations Bureaus and their personnel. The provisions of that Chapter establish and delimit the Respondents' judicial authority in connection with the Parking Violations Bureau. The relief in prohibition Relators seek exists precisely to stop Respondents from wielding judicial power not granted to them in Chapter 4521.

Third, and most important, said Respondents are usurping the judicial power which the General Assembly left with the municipal court over the violation of any ordinance, including §413.031, as argued in much greater detail below.

Relevant here is the fact that Respondents are exercising judicial power that the General Assembly did not confer on them. Section 413.031 describes the nature of Respondents' actions, but it cannot imbue those actions with legitimacy not conferred by the General Assembly. And although *Scott* may have held that the Ordinance was within the City's home rule powers, *Scott* did not overturn or depart from more than a century of jurisprudence which reserves to the General Assembly the exclusive authority to control and dispense the State's judicial power, and to do so without municipal interference.

The foregoing distinctions between Relators' Complaint and *Scott*, which Respondents either obscure or misperceive, render *Scott* and cases of related import inapposite here. But the over-arching constitutional distinction between this action in prohibition and the *Scott* and *Mendenhall* decisions must not be lost. Whatever Cleveland's home-rule powers under Section 3, Article XVIII of the Ohio Constitution, they are eclipsed by Section 1, Article IV of the Ohio

Constitution, under which judicial powers in the State are exclusively the General Assembly's to allocate. See *State ex rel. Cherrington v. Hutsinpillar* (1925), 112 Ohio St. 468, 474, 147 N.E. 647 (“Section 1, Article IV of the Ohio Constitution supersedes the general power of local self-government, as granted in Section 3, Article XVIII.”)(emphasis added). And in *Cupps v. Toledo*:

The authority granted to municipalities by Section 3 of Article XVIII, Ohio Constitution, to “exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws” and, by Section 7 of Article XVIII, to “frame and adopt or amend a charter for its government and . . . exercise thereunder all powers of local self-government” **does not include the power to regulate the jurisdiction of courts established by the Constitution or by the General Assembly thereunder.** (emphasis added)

*Cupps v. Toledo* (1959), 170 Ohio St. 144, paragraph one of the syllabus, 163 N.E.2d 384; and *In re Fortune* (1941), 138 Ohio St. 385, 388, 35 N.E.2d 442 (“Municipalities have no power to establish courts or regulate the administration of justice.”). And, as this Court held in *Ramey*:

The sovereignty of the state in respect to its courts extends over all the state, including municipalities, whether governed by charter or general laws.

None of the various provisions of article XVIII of the Constitution of *Ohio are effective to abridge the sovereignty of the state over municipalities in respect to its courts.*

*Id.*, 119 Ohio St. 596, at syllabus (emphasis added). In fact, this Court made the point clear in *Cherrington*, holding that:

The municipalities of this state have no power by charter or otherwise, to create courts and appoint judges thereof, such exercise of power being in violation of Section 1 and 10, Article IV, of the Constitution of Ohio.

*Id.*, at syllabus.

C. Respondents failed to establish a single defect in Relators pleading of the elements of its claim for a writ of prohibition.

Respondents correctly state the prerequisites for issuing a writ of prohibition as follows:

(1) the respondent is about to exercise judicial or quasi-judicial authority, (2) the authority is unauthorized by law, and (3) denying the writ will result in injury for which no other adequate

remedy exists in the ordinary course of law. *Department of Admin. Services v. SERB* (1990), 54 Ohio St.3d 48, 53, 562 N.E.2d 125. But their attempt to identify defects in Relators' pleading of those elements failed both factually and legally.

1. *Respondents have not shown the availability to Relators of an adequate remedy at law, and indeed Relators have none.*

Respondents contend that Relator Christoff "had 'an adequate remedy in the ordinary course of law' by way of the administrative proceedings set forth in Section 413.031 and by appeal of the city's decision to the common pleas court." (M. at 14, quoting *Scott* at ¶24.) But they are wrong as a matter of law. Respondents Clerk and Hearing Examiners' patent and unambiguous lack of jurisdiction to consider violations beyond those explicitly identified in R.C. Chapter 4521.04 makes the availability of either appeal or injunction irrelevant.

*Department of Admin. Services v. SERB* (1990), 54 Ohio St.3d 48, 53, 562 N.E.2d 125.

The PVB is a "creature of statute" imbued with limited judicial powers. It is not a tribunal with general subject-matter jurisdiction and, consequently, is without jurisdiction to determine its own jurisdiction. *State ex rel. Sliwinski v. Unruh*, 118 Ohio St.3d 76, 78, 2008-Ohio-1734, 886 N.E.2d 201, ¶8, citing *State ex rel. Scott v. Cleveland*, 112 Ohio St.3d 324, 2006-Ohio-6573, 859 N.E.2d 923, ¶16. Because a parking violations bureau:

is without jurisdiction whatsoever to act, the availability or adequacy of a remedy of appeal to prevent the resulting injustice is immaterial to the exercise of supervisory jurisdiction by a superior court to prevent usurpation of jurisdiction by the inferior court.

*See State ex rel. Adams v. Gusweiler* (1972), 30 Ohio St.2d 326, 329, 285 N.E.2d 22; *see also State ex rel. Northern Ohio Telephone Co., v. Winter* (1970), 23 Ohio St.2d 6, 260 N.E.2d 827; and *Hall v. American Brake Shoe Co.* (1968), 13 Ohio St.2d 11, 13, 233 N.E.2d 582. As a matter of law, Relators here have no adequate remedy in the ordinary course of law. *Scott*, at ¶ 16.

2. *Relators have sufficiently pled that Respondents are about to exercise judicial or quasi-judicial authority.*

Respondents assert that their enforcement of Sec. 413.031 “involves the recognized exercise of ‘quasi-judicial’ authority,” and does not authorize the exercise of judicial powers which would be reserved to the courts. (M. at 23.) They are wrong in at least two different and independently dispositive ways: the only powers Respondents may legitimately exercise are by definition judicial; and whatever “quasi-judicial” powers they claim to exercise pursuant to Sec. 413.031 are not legitimately theirs to exercise.

(a) **Respondents only lawful powers are judicial powers.**

As previously stated, the PVB is a special judicial “creature of statute” created by the General Assembly pursuant to its exclusive power to structure the Ohio judicial system. Section 1, Article IV, Ohio Constitution. Chapter 4521 of the Revised Code makes Respondents Clerk and Hearing Officers working parts of Ohio’s judicial system and officers responsible for exercising their portion of the State’s judicial power.

Respondent Hearing Officers are “creatures of statute” created solely by Chapter 4521.05 for the limited “parking violation” hearing purposes stated therein. Respondent Clerk holds two offices created by statute: (1) clerk of the Cleveland Municipal Court, whose duties are defined by R.C. 1901.31; and (2) violations clerk of the Cleveland Parking Violations Bureau.<sup>4</sup> The latter office is created by R.C. 4521.05(A) and involves only the duties described in R.C. Chap. 4521—particularly in R.C. 4521.08. Only in Respondent Clerk’s role as clerk of the Cleveland Municipal Court under R.C. 1901.31 has the General Assembly expressly permitted alteration of that officer’s duties. And even then they may be altered only to “perform all other duties *that the judges of the court may prescribe*” (R.C. 1901.31(E)), or, similarly, “[t]he clerk shall have

---

<sup>4</sup> Appointed by CCO §459.03(b) to that position.

other powers and duties as are prescribed *by rule or order of the court*" (R.C. 1901.31(F)). (Emphasis added.) "The clerk also shall enter all reports, verdicts, order, judgment, and proceedings of the court ... ." *Id.*

As a matter of law, the PVB and its officers participate in a fixed statutory capacity in the role which Ohio's municipal courts play concerning solely parking violations. Forgetting any pretense Respondents make to their Sec. 413.031 powers, Respondents were constituted solely to perform these limited judicial functions. Their actions are by design only judicial in nature.

(b) **The "quasi-judicial" powers Respondents claim to exercise pursuant to CCO 413.031, "judicial" or not, are not lawfully theirs to exercise.**

Respondents only response to this constitutional and statutory reality is resort to the additional powers they claim to have received under a municipal ordinance, i.e., Sec. 413.031. They admit that they are following the Cleveland City Council's mandate "TO ADMINISTER THE CIVIL ENFORCEMENT OF [ ] MOVING VIOLATIONS DOCUMENTED BY THE CAMERA SYSTEM." (M. at 19.) As corroborated by Exhibits "B" and "C" to the Complaint, the Christoff and Goldstein affidavits attached thereto, and by the Affidavit of John Petkovic attached hereto as Exhibit "A," the parties do not dispute the fact that the PVB has been and is presently enforcing and collecting fines imposed for red light and speeding violations in Cleveland pursuant to Sec. 413.031, and will continue to do so unless stopped by this Court.

As a matter of law, Respondents cannot claim any right to exercise powers under Sec. 413.031. Section 413.031(k), entitled "*Appeals*," provides in part that:

A notice of appeal shall be filed with the Hearing Officer within twenty-one (21) days from the date listed on the ticket. The failure to give notice of appeal or pay the civil penalty within this time period shall constitute a waiver of the right to contest the ticket and shall be considered an admission.

Appeals shall be heard by the Parking Violations Bureau through an administrative process established by the Clerk of the Cleveland Municipal Court. At hearings, the strict rules of evidence applicable to courts of law shall not apply. The contents of the ticket shall constitute a prima facie evidence of the facts it contains. Liability may be found by the hearing examiner based upon a preponderance of the evidence. If a finding of liability is appealed, the record of the case shall include the order of the Parking Violations Bureau, the Ticket, other evidence submitted by the respondent or the City of Cleveland, and a transcript or record of the hearing, in a written or electronic form acceptable to the court to which the case is appealed.

Respondents rely in vain on this as a source for their alleged additional powers. Their legitimate powers are established by the General Assembly pursuant to its exclusive power to structure the State's judicial system. Section 1, Article IV of the Ohio Constitution. The City has no power, from whatever source, to tamper with a PVB's functions. Similarly, the City has no power to tamper with the statutory jurisdiction assigned by the General Assembly to the Clerk and to the Hearing Examiners, the former of whom is also made expressly subject to the control only of the Judges of the Cleveland Municipal Court.

Thus, it is a nullity for Respondents to claim endowment under Sec. 413.031 to do anything. The City of Cleveland simply has no authority to:

- authorize the Clerk to establish an administrative process in the Parking Violations Bureau for the hearing of appeals by the Hearing Examiners for red light and speeding violations;
- authorize Hearing Examiners within the Parking Violations Bureau to accept the filing of a notice of appeal of red light and speeding violations;
- expand the jurisdiction of the Parking Violations Bureau to direct its Hearing Examiners to hear appeals of red light and speeding violations;
- dictate the rules of evidence to be applied by Hearing Examiners in any appeal;
- authorize Hearing Examiners to make decisions as to the guilt or innocence of those charged with red light and speeding violations;
- authorize the Clerk to enter red light and speeding violations as judgments in the records of the Parking Violations Bureau, including for up to three years after the issuance of a ticket;

- authorize the Clerk to enter reports, verdicts, orders, judgments, and proceedings *of the Cleveland Parking Violations Bureau* and its (Respondent) Hearing Examiners, relating to Sec. 413.031 violations, when by statute the Clerk is only permitted (as clerk of the Cleveland Municipal Court) to enter “reports, verdicts, order, judgment, and proceedings *of the court*” (R.C. 1901.31(E));
- authorize the Clerk to ripen purported Sec. 413.031 judgments into civil judgments by receiving and filing same, per R.C. 4521.08(C), a function not merely ministerial but judicial in nature, since R.C. 1901.31(E) only authorizes the Clerk to file judgments “of the court”; or
- authorize the Clerk to collect and enforce the collection of red light and speeding fines.

Sec. 413.031.

Respondents’ continuing performance of the foregoing activities incontrovertibly constitutes unauthorized judicial conduct. That conduct clearly violates both R.C. Chap. 4521 and R.C. 1901.20(A)(1), both of which the General Assembly adopted under its exclusive constitutional authority to structure Ohio’s courts. Chapter 4521 establishes PVBs and delineates its limited jurisdiction, and R.C. 1901.20(A)(1) assigns to municipal courts jurisdiction over the violation of “any ordinance of any municipal corporation,” which necessarily includes municipal red light and speeding violations. The General Assembly has made a limited carve-out of municipal court jurisdiction concerning parking violations. But it has manifestly not done so for the red light and speeding violations.

The decision in *State ex rel. Wright v. Ohio Bur. Of Motor Vehicles* (1999), 87 Ohio St.3d 184, 718 N.E.2d 908 does not assist Respondents. (M. at 12.) Respondents erroneously contend that *Wright* precludes relief in prohibition here because Relator Christoff allegedly failed to take action to subject himself to the CCO 413.031 quasi-judicial procedure which he now seeks to prohibit. Relator’s request for the relief in prohibition, however, remains entirely viable. Where, as here, said Respondents “patently and unambiguously lack[] jurisdiction over the

cause, prohibition will lie both to prevent the future unauthorized exercise of jurisdiction and to correct the results of previous jurisdictionally unauthorized actions.” *State ex rel. Stern v. Mascio* (1998), 81 Ohio St.3d 297, 298-299, 691 N.E.2d 253, *citing State ex rel. Rogers v. McGee Brown* (1997), 80 Ohio St.3d 408, 410, 686 N.E.2d 1126 (emphasis supplied). See *Rogers*, 80 Ohio St.3d at 1127-1128 (“... rejecting a similar contention that a writ of prohibition will not issue where the respondent judge already exercised the judicial act sought to be prevented ....”) (Complaint, par. 50.) Relator Christoff has waived nothing.

A writ of prohibition is necessary to prevent Respondents from the continued exercise of judicial power over Relator Christoff’s Notice of Liability. Curiously, Respondents agree more with Relator’s basis for this claim than they let on. As one example of Respondents’ imminent exercise of judicial power, Relator points to Respondents’ right to convert Hearing Officer judgments and default judgments into civil money judgments. R.C. 4521.08(C). Respondents, apparently unaware of how much they concede in so arguing, dismiss Relator’s concerns, insisting that they can’t convert the speeding and red light judgments into such civil judgments because R.C. 4521.08 “makes clear that paragraph (C) of the statute facially relates only to parking violations.” (M. at p. 22.) On this point, i.e., that Respondents can do nothing which R.C. Chap. 4521 does not expressly authorize, the parties very much agree.

D. Respondents failed to establish a single defect in Relators pleading of the elements of its claim for a writ of mandamus.

Relator Goldstein alleges that the three traditional elements for the issuance of a writ of mandamus have been fulfilled. (Complaint at ¶¶71-72, “a clear legal right to the requested relief, a corresponding clear legal duty on the part of respondents to provide it, and the lack of an adequate remedy in the ordinary course of the law. [citations omitted]”). Respondents counter by asserting that Relator’s claim for mandamus is contingent upon the issuance of the writ of

prohibition in favor of Relator Christoff. (M. at 23.) Respondents here bootstrap one Relator's supposedly invalid prohibition claim to another Relator's mandamus claim in an attempt to show both to be unsupportable as a matter of law. That argument, however, is not valid.

1. *Relator Goldstein has a clear right to recover, and Respondents have a corresponding clear legal duty to restore, the money sought.*

Relator Goldstein's theory is that when, as appropriate here, a court finds an ordinance unconstitutional in a mandamus action, it may direct public bodies or officials to follow a constitutional course in completing their duties. *State ex rel. Zupancic v. Limbach* (1991), 58 Ohio St.3d 130, 133, 568 N.E.2d 1206, and *State, ex rel. Park Invest. Co., v. Bd. of Tax Appeals* (1971), 26 Ohio St.2d 161, 270 N.E.2d 342. The fact that the statutes may not expressly provide for a refund by the aforementioned Respondents is not controlling. *State ex rel. Zone Cab Corp. v. Industrial Com.* (1937), 132 Ohio St. 437, 443-44, 8 N.E.2d 438.

On or about November 10, 2010, Relator Goldstein, the class representative, paid to Respondent Clerk the sum of Four Hundred Dollars (\$400.00) as evidenced by Complaint Exhibit "C". The payment was made in satisfaction of four (4) Notices of Liability for alleged violations of Section 413.031.<sup>5</sup> Relator Goldstein seeks the issuance of a writ of mandamus compelling named Respondents to restore to him and those similarly situated, the money they illegally collected from him/them for other than statutorily defined "*parking infractions*," to wit: all money collected by said Respondents under the auspices of the PVB pursuant to §413.031, for violations of Cleveland's speeding and red light ordinances, or collected in satisfaction of any judgment for said violations. (Complaint, at ¶79.)

---

<sup>5</sup> True copies of the first pages of three of these Notices are attached as part of Complaint **Ex. C**, along with Relator Goldstein's Affidavit. A fourth Notice of Liability that has been misplaced.

Relator need only establish that Respondents exceeded their authority in collecting the sums he and the class he represents seek. That is manifestly demonstrated above. And what Respondents have unlawfully collected they have a clear duty to restore to Relator.

2. *Relator Goldstein's claim for mandamus is not dependent upon the issuance of the writ of prohibition.*

Relator Goldstein's claim for a writ of mandamus (and that of the class) is not dependent upon the issuance of the writ of prohibition sought by Relator Christoff. (M. at 23.) It simply misstates the Complaint to contend otherwise. Nor is Relator Goldstein asserting that he was, or was not, speeding.

Relator Goldstein's clear right to restoration of the money exacted from him requires Relator only to demonstrate as unlawful and/or unconstitutional the Respondents' act of collecting it from him in the first instance. That conduct of Respondents is a completed act, and the sums they wrongfully collected are liquidated in amount. Relator will not also need to prove that any Respondent "is about to exercise judicial or quasi-judicial authority," which proof is required to obtain the writ of prohibition—and is substantiated above regardless. Thus, were the Court to find that prohibition was inappropriate for the lack of a showing of imminent "judicial or quasi-judicial authority," Relator' Goldstein's mandamus claim remains meritorious.

3. *The lack of an adequate remedy at law is established by the circumstances and law cited in conjunction with this same prong of the prohibition claim.*

Relator Goldstein's lack of an adequate remedy in the ordinary course of the law is also substantiated by the fact that the PVB is not a tribunal having general subject-matter jurisdiction and, therefore, cannot determine its own jurisdiction (*State ex rel. Sliwinski v. Unruh*, 118 Ohio St.3d 76, 2008-Ohio-1734, 886 N.E.2d 201, at ¶8, citing *Scott*, at ¶16), and that it and Respondents Clerk and Hearing Examiners patently and unambiguously lack jurisdiction to

adjudicate alleged Section 413.031 violations. As noted above, such proof makes the availability of either appeal or injunction irrelevant to the issuance of a writ of mandamus. *Department of Administrative Services*, 54 Ohio St.3d at 53 *supra*. See Section IV C 1, *supra*.

Accordingly, independent of the issuance of the writ of prohibition, Relator Goldstein is entitled to the writ of mandamus sought to “direct the public bodies or officials to follow a constitutional course in completing their duties,” *Id.*, by restoring to Relator and to those similarly situated all money collected through the unlawful exercise of judicial power.

4. *That Relator Goldstein has paid the disputed sums already cannot effect a waiver of his right to contest the PVB’s or Respondents’ subject matter jurisdiction over the red light and speeding violations.*

The aforesaid lack of subject matter jurisdiction cannot be waived regardless of procedural deficiencies and thus, may be raised at any time. *H.R. Options, Inc. v. Zaino* (2004), 100 Ohio St.3d 373, 374, 800 N.E.2d 740, 2004-Ohio-1, at ¶ 8. Consequently, and as a matter of law, Relator Goldstein cannot be deemed to have conceded civil liability by the act of his paying the contested fines to the Respondent Clerk of the PVB for alleged speeding violations. The very core of Relator’s claim is that Respondent Clerk never had subject matter jurisdiction over the speeding violations in the first instance.

In this regard, Respondents choose to distinguish only the facts of *Zone Cab*. (M. at 26.) *Zone Cab* aside, Relator Goldstein’s reliance on the repeated holdings of this Court that Respondents can be compelled by mandamus to follow a constitutional course in completing their duties remains unassailed by Respondents. See, also, *State ex rel. Ohio Academy of Trial Lawyers v. Sheward* (1999), 86 Ohio St.3d 451, 507-508, 715 N.E.2d 1062, 1106 – 1107.

Moreover:

Where a petition stating a proper cause of action in mandamus is filed originally in the Supreme Court, and it is determined that there is no plain and adequate remedy in the ordinary course of the law by way of an appeal, the Supreme Court has no authority to exercise jurisdictional discretion and the refusal to exercise jurisdiction on the ground that either of the extraordinary remedies of statutory mandatory injunction (Section 2727.01 *et seq.*, Revised Code) or statutory mandamus (Section 2731.01 *et seq.*, Revised Code) is available in the Common Pleas Court, is constitutionally impermissible under the last sentence of Section 2 of Article IV of the Ohio Constitution. \* \* \* (Citations omitted.)<sup>6</sup>

*State ex rel. Zupancic v. Limbach* (1991), 58 Ohio St.3d 130, 132-133, 568 N.E.2d 1206, 1208 – 1209.

5. *This Court has long recognized its original jurisdiction to declare the constitutionality of an ordinance, or to necessarily address the constitutionality of an ordinance as ancillary to the consideration of the writ of mandamus itself.*

This Court has held that a mandamus action may test the constitutionality of a statute<sup>7</sup>, charter<sup>8</sup>, or ordinance.<sup>9</sup>

Thus, without reference whatsoever to Relator Christoff's claims this Court may determine the efficacy of Relator Goldstein's claims. In so doing, this Court may exercise its original jurisdiction in mandamus to address the constitutionality of §413.031, though it need not

---

<sup>6</sup> Ohio Const. Art. IV, §2(B)(3): "No law shall be passed or rule made where any person shall be prevented from invoking the original jurisdiction of the supreme court."

<sup>7</sup> *State ex rel. Zupancic v. Limbach* (1991), 58 Ohio St.3d 130, 133, 568 N.E.2d 1206, 1209, citing *State ex rel. Michaels v. Morse* (1956), 165 Ohio St. 599, 608.

<sup>8</sup> *State ex rel. Brown v. Summit County Bd. of Elections* (1989), 46 Ohio St.3d 166, 167, 545 N.E.2d 1256 ("the constitutionality of a city **charter** section may also be challenged by mandamus.").

<sup>9</sup> *State ex rel. Mill Creek Metro. Park Dist. Bd. of Commrs. v. Tablack* (1999), 86 Ohio St.3d 293, 297, 714 N.E.2d 917, citing *State ex rel. BSW Dev. Group v. Dayton* (1998), 83 Ohio St.3d 338, 345, 699 N.E.2d 1271, ("the constitutionality of a **statute** or **ordinance** may in certain circumstances be challenged by mandamus.").

do so. Alternatively, this Court may necessarily have to address the constitutionality of Respondents' exercise of judicial power, the decision over which is "only ancillary to [y]our consideration of the writ itself," *State ex rel. Zupancic v. Limbach* (1991), 58 Ohio St.3d 130, 132-133, 568 N.E.2d 1206, 1208-1209.<sup>10</sup>

6. *Relator Goldstein has no adequate remedy in the ordinary course of the law because he strictly seeks mandatory rather than prohibitory relief.*

Relator has no adequate remedy in the ordinary course of the law. For the same patent and unambiguous lack of jurisdiction<sup>11</sup> which renders immaterial the availability or adequacy of a remedy of appeal<sup>12</sup> with respect to the issuance of a writ of prohibition, the availability or adequacy of a remedy of appeal to prevent the resulting injustice is immaterial to the issuance of a writ of mandamus. *State ex rel. Smith v. Frost* (1995), 74 Ohio St.3d 107, 109, 656 N.E.2d 673 (1995).

Additionally, Relator clearly seeks mandatory, not prohibitory relief. "A writ of mandamus compels action or commands the performance of a duty, while a decree of injunction ordinarily restrains or forbids the performance of a specified act." *State ex rel. Smith v.*

*Industrial Commission* (1942), 139 Ohio St. 303-303, 838. Thus, were Relator Goldstein

---

<sup>10</sup> "In exercising our original jurisdiction we will necessarily have to address the constitutionality of R.C. 5727.15(C) and decide whether to prevent respondent from carrying out the task required under the present apportionment statute; however, these decisions are only ancillary to our consideration of the writ itself on the merits." *Id.*

<sup>11</sup> See, e.g., Complaint, ¶58.

<sup>12</sup> Moreover, given that the municipal court has jurisdiction over violations of §413.031, the General Assembly has exercised its exclusive authority under Ohio Const. Art. IV, §3(B)(2)<sup>12</sup> to repose appellate jurisdiction in the court of appeals. R.C. 1901.30(A). While appeals from a duly constituted parking violations bureau are reposed by the General Assembly in the municipal court, R.C. 4521.08(D) and R.C. 1901.20(C), the ordinary course of appellate rights of an alleged violator of §413.031 cannot be affected by municipal ordinance. *In re Fortune* (1941), 138 Ohio St. 385, 35 N.E.2d 442. See also *Cupps v. Toledo* (1959), 170 Ohio St. 144, 163 N.E.2d 384.

seeking, in essence, a declaratory judgment to the effect that §413.031 was unconstitutional, Relator would still have to couple that declaration with a mandatory injunction – to compel restoration to Relator Goldstein and the class the money exacted in the total absence of quasi-judicial or judicial power. Because a mandatory injunction is an extraordinary remedy, it does not constitute an adequate remedy in the ordinary course of the law. *State ex rel. Ohio Civ. Serv. Employees Assn., AFSCME, Local 11, AFL-CIO v. State Emp. Relations Bd.* (2004), 104 Ohio St.3d 122, 126-127, 818 N.E.2d 688, citing *State ex rel. Zupancic v. Limbach* (1991), 58 Ohio St.3d 130, 133, 568 N.E.2d 1206; *State ex rel. Fenske v. McGovern*, 11 Ohio St.3d 129, 11 OBR 426, 464 N.E.2d 525, paragraph one of the syllabus; *State ex rel. Pressley v. Indus. Comm.* (1967), 11 Ohio St.2d 141, 40 O.O.2d 141, 228 N.E.2d 631, paragraph six of the syllabus.

Having conceded that Respondents Dumas, Hartley, and Cleveland periodically receive money from Respondent Clerk which said Respondent receives from §413.031 violations (M. at 7) those Respondents' hands which are upon the money are as unclean as Respondent Clerk's, and they equally have no right to retain such money – "[t]he rationale of this concept is that the [unlawful] payments never did in reality belong in the [the Respondents' hands] ... [and are]... no longer properly a part of the fund and should be restored to the rightful owner." *State ex rel. Zone Cab Corp. v. Industrial Com.* (1937), 132 Ohio St. 437, 443-44, 8 N.E.2d 438.

V. **RESPONDENTS MISINTERPRET THE RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS EXPOSING THEIR WRONGFUL EXERCISE OF JUDICIAL POWER.**

A. **Respondents' mistaken characterization of their powers as "quasi-judicial" instead of "judicial" ultimately does not affect the merits of Relator's prohibition claim.**

Respondents insist that the Section 413.031 powers they exercise are quasi-judicial in nature, not judicial. (M. at 15.) This distinction has no bearing on Relators' claims. Whether quasi-judicial or judicial in nature, the activities Respondents are undertaking relative to

speeding and red light infractions explicitly exceed their statutory authority. Notwithstanding, Respondents are indeed wrongfully exercising judicial power, which is subject to a writ of prohibition.<sup>13</sup>

1. *In R.C. 1901.20, the General Assembly gave municipal courts jurisdiction over all municipal ordinance violations, criminal and civil, excepting only parking violations bureaus' handling of parking violations, which renders the powers Respondents claim to be exercising under Section 413.031 an unlawful encroachment on the municipal courts' judicial powers.*

Ignoring R.C. 1901.20(A)'s plain language, Respondents insist that the judicial power which that section gives to municipal courts over municipal ordinances is unaffected by Respondents' hearing of speed and traffic signal violation cases. (M. at 16, 20.) Even were Respondents correct, their contention on this point does not impair the merits of Relators' claims.

Again, pursuant to its exclusive power to establish and dispense judicial powers in the State, the General Assembly enacted R.C. Chapter 1901. Section 1, Article IV, Constitution. The language of R.C. 1901.20(A) speaks for itself and requires no construction:

The municipal court has jurisdiction of the violation of *any ordinance* ..., and of the violation of *any misdemeanor* .... (emphasis added)

R.C. 1901.20(A)(1). This Court has confirmed that the term "any" means "every" and "all." *See Gardner*, 2008-Ohio-2787 at ¶33. Because this language must mean what it says, the General Assembly has plainly given municipal courts jurisdiction over all civil and all criminal municipal ordinances—which necessarily includes civil ordinances like the decriminalized violations of red light and speeding offenses that Section 413.031 proposes.

---

<sup>13</sup> This Court accepted in *Scott* Respondent Cleveland's concession that the hearing of appeals from Section 413.031(k) notices of violation involved the exercise of quasi-judicial power (*Scott* at ¶15). Notwithstanding, a searching examination of the powers that Respondents Clerk and Hearing Examiners exercise under that section—which examination this Court was not asked to undertake in *Scott*—reveals those powers to be judicial in nature.

If this provision even required construction, which it does not, the same interpretation results. In construing a statute, “[n]o part should be treated as superfluous unless that is manifestly required, and the court should avoid that construction which renders a provision meaningless or inoperative.” *Boley v. Goodyear Tire & Rubber Co.* (2010), 125 Ohio St.3d 510, 513, 929 N.E.2d 448, 451 – 452, at ¶21, quoting *State ex rel. Myers v. Spencer Twp. Rural School Dist. Bd. of Edn.* (1917), 95 Ohio St. 367, 373, 116 N.E. 516. Although the statute specifically uses the modifier “criminal” elsewhere, it made no such distinction in (A)(1) referring generally to “any ordinance” of any municipality. And were the phrase “**violation of any ordinance**” limited to criminal ordinance violations, as Respondents propose, it would render superfluous or redundant the phrase “and of the **violation of any misdemeanor**” later in that sentence, since every municipal criminal ordinance establishes only a misdemeanor offense.<sup>14</sup>

Section R.C. 1901.20(A)(1) also states:

... The municipal court has jurisdiction of the violation of a vehicle **parking or standing** resolution or regulation if a local authority, as defined in division (D) of section 4521.01 of the Revised Code, has specified that it is **not to be considered a criminal offense**, if the violation is committed within the limits of the court's territory and if the violation is not required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code. (emphasis added)

---

<sup>14</sup> A criminal municipal ordinance can only be punished as a misdemeanor because one who violates an ordinance “... **does not offend against the dignity of the state ... [but] ... only against the municipal corporation whose ordinance he has violated.**” *State v. Rouch* (1890), 47 Ohio St. 478, 479-82, 25 N.E. 59, 60. (Emphasis added.) Were ordinance violations punishable as felonies, they would have to be charged by indictment (per Ohio Const. Art. I, §10), and it is required that each such indictment “shall conclude, ‘**against the peace and dignity of the state of Ohio**’” (per Ohio Const. Art. IV, §20). (Emphasis added.) Because they do not violate the dignity of the state, ordinance violations cannot be felonies. Moreover, a municipal court has no jurisdiction to try felonies. R.C. 1901.20(B).

This part of R.C. 1902.20(A) leaves with the municipal court every *civil* offense arising from the violation of a decriminalized municipal “parking or standing” ordinance, unless such has been assigned to a parking violations bureau. Note that the General Assembly expressly left these relatively minor parking and standing violations with the municipal court after they were decriminalized, unless statutory procedures for re-assigning them were followed. And yet, nothing in this provision authorizes the re-assignment of decriminalized (i.e., civil) violations of the more serious traffic offenses of the speeding or red light variety. Plainly, the General Assembly knows well, when it intends to, how to authorize a parking bureau’s consideration of limited, decriminalized traffic offenses.

Nor do Respondents benefit from R.C. 1901.20’s section heading, which describes the section as addressing “criminal jurisdiction; appeals from non-criminal traffic violations.” “Title, Chapter, and section headings and marginal General Code section numbers do not constitute any part of the law as contained in the ‘Revised Code.’” R.C. 1.01. “The General Assembly has, thus, quite explicitly stated that the substance of a statute is not to be gleaned from its appellation.” *Viers v. Dunlap* (1982), 1 Ohio St.3d 173, 175, 438 N.E.2d 881.<sup>15</sup>

---

<sup>15</sup> As this Court has noted, this is for good reason:

“[H]eadings are publisher’s aids to the user of the code. [They are not] part of the code; [they are not] official. ‘In Ohio, the General Assembly does not assign official Revised Code headings, or taglines; they are written by the Publisher’s editorial staff.’ Baldwin’s Ohio Legislative Service (1994), User’s Guide, 4. ‘Where new sections have been added to the Revised Code without official headings, descriptive headings have been supplied by the publisher’s editorial staff.’ Page’s Revised Code Annotated (1990), Preface, vi.” *Cosgrove v. Williamsburg of Cincinnati Mgt. Co., Inc.* (1994), 70 Ohio St.3d 281, 286, 638 N.E.2d 991, 995, fn. 1 (Resnick, J., concurring).

*Stevens v. Ackman* (2001), 91 Ohio St.3d 182, 197, 743 N.E.2d 901, 912 - 913 (Ohio, 2001) (Cook, concurring in part.)

For similar reasons, *State v. Cowan* (2004), 101 Ohio St.3d 372, 2004-Ohio-1583, 805 N.E.2d 1085, also does not support Respondents' argument that R.C. 1901.20(A)(1) limits municipal court jurisdiction over ordinance violations to criminal violations. (M. at 16-17.) *Cowan* merely held that municipal courts have no jurisdiction to review petitions for post-conviction relief under R.C. 2953.21 for convictions based upon violations of a state law. *Id.*, Syllabus. *Cowan* explained: "Neither R.C. 1901.18 nor R.C. 1901.20 provides for jurisdiction over post-conviction relief petitions in municipal court. Had the General Assembly envisioned such jurisdiction, it could have explicitly conferred it in R.C. Chapter 1901." *Id.*, ¶11 (emphasis added).<sup>16</sup> The General Assembly having drawn no such distinctions, this Court and the Respondents are powerless to do so. If anything, *Cowan's* reasoning supports Relators' exact reading of R.C. 1901.20(A)(1).

Thus, the General Assembly included civil and criminal municipal ordinances, including decriminalized traffic offenses, within the judicial power of the State's municipal courts. R.C. 1901.20(A)(1). And judicial power exercised by the municipal court over "the violation of any ordinance" remains judicial power when exercised by Respondent Clerk and Hearing Examiners. *State ex rel. Coyne v. Todia* (1989), 45 Ohio St.3d 232, 236, 543 N.E.2d 1271 ("By seeking exclusive jurisdiction at the expense of relators-mayor's courts, respondents are about to exercise judicial power—that currently [sic] exercised by the mayors."). Respondents cannot claim that

---

<sup>16</sup> Respondents make too much of the Court's shorthand descriptions of R.C. 1901.18 and 1901.20 as "relating to civil matters and ... to criminal and traffic matters" respectively. *Cowan*, 2004-Ohio-1583, P 11. First, the language in *Cowan* on which Respondents rely is obviously dicta. Second, the Court's generalized descriptions of R.C. 1901.18 and 1901.20 obviously are no substitutes for the substance and text of those statutes and clearly were not intended to be. *Id.*, P. 19 (allowing for municipal court jurisdiction over post-conviction petitions "would be to rewrite the statute, a function that must be left to the discretion of the General Assembly....").

the powers they now purport to exercise under Section 413.031, over civil red light and speeding offenses, are anything but judicial in nature. And because they are, prohibition to stop them lies.

2. *By their terms and purpose, the R.C. Chap. 4521 provisions establishing Respondents' positions and powers render those powers judicial in nature.*

Judicial power subsists in “[t]he...power to render a judgment ...that is binding ...upon all litigants until overruled ...,” *State v. Cox* (1913), 87 Ohio St. 313, 333-34, 101 N.E. 135, and has been described as “the power...to decide and pronounce a judgment and carry it into effect between persons and parties who bring a case before it for decision.” *Id.* Respondents are by design in the nature of judicial officers of a limited judicial organ of the State, a conclusion that follows from a review of Chapter 4521.

A Chapter 4521 parking violations bureau is *created by the grant of authority from a municipal court* to a requesting municipality. R.C. 4521.04(A)(1) and (B). Once established, such bureaus may then: determine whether a parking ordinance was violated; consider evidence; apply a statutorily defined burden of proof; compel witnesses to testify; impose fines; and render judgments. Indeed, for a period of three years after a ticket is issued, the bureau’s judgment may be perfected into a fully enforceable civil judgment by filing it with the municipal court. R.C. 4521.08. Moreover, the power to appeal from a bureau’s decision is granted back to the authorizing municipal court. R.C. 4521.08(D).

Thus, the *only* power the General Assembly gave to Respondent Clerk and Hearing Examiners under R.C. Chap. 4521, given that power’s origin and function, is judicial power.

3. *Respondents' examination of building and zoning board appellate jurisdiction actually strengthens Relator's arguments here.*

On the premise that judicial power once reposed by the General Assembly in courts may not be withdrawn **except upon authority of equal dignity from the General Assembly, Ohio**

Const. Art. IV, §1, the cases cited by Respondents (M. at 17, fn. 7) do not detract whatsoever from the proposition that the municipal court has jurisdiction over the “violation of any ordinance,” R.C. 1901.20(A)(1), including violations of §413.031, whether civilly or criminally enforced.

Virtually every case cited by Respondents deals with a zoning or building issue. That only underscores Relator’s point here. The General Assembly has specifically permitted the removal of building and zoning ordinance violations from municipal court jurisdiction. Pursuant to Ohio Const. Art. IV, §1, it was established **by act of the General Assembly** that building code violations may be administratively adjudicated. R.C. 3781.19. Similarly, it was established **by act of the General Assembly** that zoning ordinance violations may also be administratively adjudicated. R.C. 713.11 and R.C. 713.14. Conversely, the General Assembly has not so acted to remove jurisdiction over civil speeding and red light ordinance violations from municipal court jurisdiction. And although Respondents cite to *State v. Lyons* 2007 WL 490912, 1 (Ohio App. 1 Dist.) (Ohio App. 1 Dist., 2007), at ¶7, which involves neither building nor zoning codes, the only issue in *Lyons* was whether payment of a civil fine constituted prior Jeopardy so as to preclude criminal prosecution for the same offense. No mention is made of whether such an administrative adjudication was contrary to R.C. 1901.20(A)(1).

Unless and until the General Assembly acts, only the Cleveland Municipal Court, per R.C. Chap. 1901, has jurisdiction to hear the civil traffic violations that CCO 413.031 created.

- B. Respondents’ claim to be exercising extra jurisdictional powers given them by the City under Section 413.031 violates both their limited statutory authority and the Ohio Constitution.

Respondents also admit that they received their purported powers over red light and speeding violations from the City, not the General Assembly. (M. at 20, “the City Council with

the legislative enactment of CCO 413.031 authorized Respondents [sic] involvement in the quasi-judicial hearings [sic] authorized by the ordinance”.) While this again mischaracterizes their authority as “quasi-judicial” (see above), it confirms exactly what Relators have alleged.

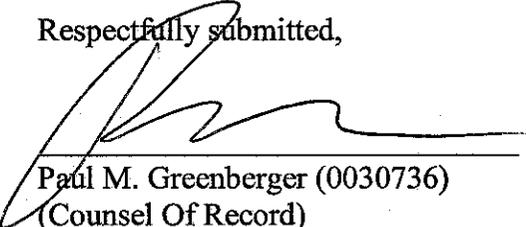
Cleveland City Council lacks power to bestow any authority whatsoever on the Parking Violations Bureau, its clerk, or its hearing examiners. As a result, violations of speeding and red light ordinances cannot be violations required to be handled by a parking violations bureau under Chapter 4521, and a municipality simply cannot expand the jurisdiction of a parking violations bureau beyond the jurisdiction provided by the General Assembly for “parking infractions”—particularly at the expense of a municipal court’s jurisdiction over violations of municipal ordinances.

Consequently, the judicial authority being exercised by Respondent Clerk and Respondent Hearing Examiners under §401.031 is unauthorized by law.

## VI. CONCLUSION

This Court has not in fact yet considered the claims Relators now present. And these claims are of first order magnitude as regards the State’s exercise of its sovereign judicial powers. Relators respectfully request that the Court deny Respondents’ Motion to Dismiss and ask this Court to issue the peremptory writs sought in the Complaint.

Respectfully submitted,



---

Paul M. Greenberger (0030736)  
(Counsel Of Record)

Timothy J. Duff (0046764)

Jordan Berns (0047404)

BERNS, OCKNER & GREENBERGER, LLC

3733 Park East Drive - Suite 200

Beachwood, Ohio 44122-4334

216-831-8838

FAX 216-464-4489

E-mail: pgreenberger@bernssockner.com

tduff@bernssockner.com

jberns@bernssockner.com

*Attorneys for Relators*

**CERTIFICATE OF SERVICE**

A copy of the foregoing has been served via first class U.S. Mail, postage prepaid this  
23<sup>rd</sup> day of March, 2011 upon the following parties:

Robert J. Triozzi, Esq.

Gary S. Singletary, Esq.

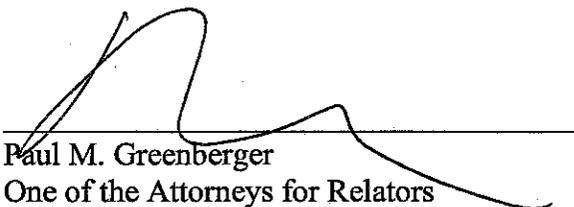
Mark Musson, Esq.

City of Cleveland

601 Lakeside Avenue – Room 106

Cleveland, Ohio 44114-1077

*Attorneys for Respondents*



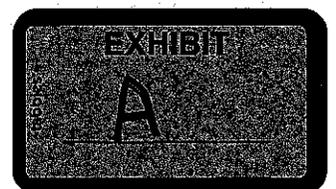
---

Paul M. Greenberger  
One of the Attorneys for Relators

STATE OF OHIO                    )  
  ) SS: AFFIDAVIT  
COUNTY OF CUYAHOGA )

I, JOHN PETKOVIC, being first duly sworn, depose and say on personal knowledge that:

1. I am competent to testify to all matters stated herein.
2. I had incurred a number of outstanding traffic camera speeding tickets in Cleveland, Ohio, and a number of outstanding parking tickets in Cleveland, Ohio. Those tickets are reflected on the two attached eTIMS sheets which I originally received personally from the clerk in the Cleveland Parking Violations Bureau on or about February 28 , 2011, during my first visit to that office.
3. I obtained these two documents as a result of the fact that I was advised by the Ohio BMV that I had a so-called "DETER" block from the City of Cleveland, Ohio, as a result of the aforesaid outstanding parking ticket violations. That block precluded me from renewing my license plate registration.
4. I then proceeded to the Cleveland Parking Violations Bureau to determine how I could release the DETER block to renew my plates.
5. The clerk at the window of the Cleveland Parking Violations Bureau stated that I could not merely pay the outstanding parking tickets in order to be released from the license plate renewal block. Instead, she advised me that I had to pay all of my outstanding tickets in order to obtain a release of the block on my license plate renewal. In other words, she said I could not split the payment of the parking tickets from the payment of the traffic camera speeding tickets.
6. She stated that she would decrease my parking tickets to a total of \$5.00, and thus from a total of \$1,220.00 for all speeding and all parking tickets to a total of \$965.00. Her original notes to that effect appear on the lower portion of the eTIMS printout printed on 2/28/11 (footer), the original of which is attached (ssn# redacted).
7. I persisted in seeking to pay only the outstanding parking tickets because the BMV never mentioned to me that anything but outstanding parking tickets from Cleveland precluded my plate renewal. Despite this, she refused to receive only the parking



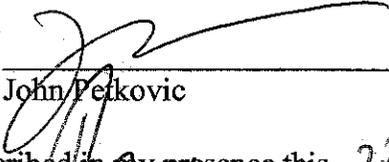
ticket payments insisting on receiving the discounted payment for all speeding and parking violations.

8. Being aware of the pendency of litigation over the camera speeding ticket issues, I called attorney Paul M. Greenberger on or about March, 10, 2011, who confirmed to me that the relevant statues only barred renewal of license plate registrations for outstanding parking tickets from a Parking Violations Bureau. He further advised me that he verified with the BMV in Columbus that they issue no DETER blocks for anything but outstanding parking violations, and further confirmed that the BMV had no record of my outstanding camera speeding violations in Cleveland.
9. Armed with that knowledge, I returned to the Cleveland Parking Violations Bureau on or about 3/11/2011 (original attached, ssn# redacted), and spoke with a different clerk who repeated to me the exact policy I heard on my first visit, that is, I was required to pay for both my outstanding parking and outstanding camera speeding ticket violations, or else they would not take the DETER block off. She said this despite my advising her that I had a right to pay only my outstanding parking tickets, and in exchange for that payment, I was entitled to a release of the DETER block. She still refused to accept my partial payment for parking only.
10. I stepped out of line, called attorney Greenberger, who advised me to again insist on my rights to pay only my outstanding parking violations, and to further insist upon receipt of a release of the DETER block in exchange for that limited payment.
11. I again approached the clerk and asked for a supervisor, at which time the clerk with whom I was speaking got on the phone and spoke with someone.
12. At the end of her call she said to me, in substance, "okay, I guess this time we'll take the partial payment," and she said so in a quiet and rather understated way so that others in line near me could not hear her.
13. She then issued to me the attached, "DETER SYSTEM CLEARANCE" document, bearing #11694, which I then took to the BMV and obtained my license plate renewal.

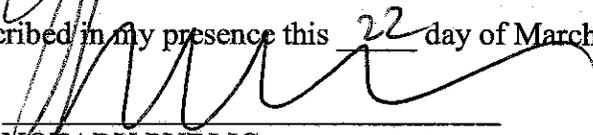
14. While in line I took a photo with my phone, a true copy of which is attached hereto.

This photo accurately depicts the signage in place at the Cleveland Parking Violations Bureau ticket payment desk.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
John Petkovic

Sworn to before me and subscribed in my presence this 22 day of March, 2011.

  
\_\_\_\_\_  
NOTARY PUBLIC

PAUL GREENBERGER, Attorney  
Notary Public - State of Ohio  
My Commission has no expiration date.  
Section 147.06 R.C.

eTIMS CLEVELAND, OH :: General Processing

Home | Help | Log Out | eTIMS SubSystems

TICKET MANAGEMENT CUSTOMER DETAILS HISTORY TRACK

TICKET MANAGEMENT

Add a Ticket | Restore a Ticket | Show Related Entities | Tow Tracking

**Quick Process**

All: 10 (\$390.00)  
 Open Tickets: 4 (\$390.00)  
 Boot Eligible Tickets: 4 (\$390.00)  
 Marked/Held Tickets: (\$0.00)

**Customer**

Petkovic John  
 8620 Pinehurst Dr  
 Parma, OH 44129  
**Address Source:** Manual

**Financial Summary**

Ticket Amount: \$390.00  
 Fee Amount: \$0.00  
**Total Due: \$390.00**  
 Unapplied Amt: \$0.00

**Customer Status**

Assigned

Choose Process

QUICK PROCESS

**Ticket Type:** Park  
**Plate:** OHASJ7322 07/13/1998

SUMMARY PENALTY PAYMENTS NOTICES HEARINGS SUSPENDS CORRESPONDENCE

Print Tickets

All	Ticket#	Status/Date	Issued on	Violation Code/Description	Other/Violation	Location	Fine Amt	Penalties	Total Due
<input type="checkbox"/>	M000385595 LDC	UNPAID 03/23/2007	03/23/2007 03:00PM	413031C2A MOBILE RADAR SPEED	Yes	2121 ST. CLAIR AV W/B	\$100.00	\$60.00	\$160.00
<input type="checkbox"/>	F002626368 LDC	UNPAID 09/12/2006	09/12/2006 10:03AM	413031C3A FIXED POLE SPEED	Yes	6900 block Woodland Av e/b	\$100.00	\$60.00	\$160.00
<input type="checkbox"/>	CL74163825 MRS	UNPAID 07/27/2005	07/27/2005 03:55PM	45302 METER EXPIRED	No	1900 SUPERIOR	\$25.00	\$10.00	\$35.00
<input type="checkbox"/>	CL73800567 MRS	UNPAID 05/12/2005	05/12/2005 10:46AM	45302 METER EXPIRED	No	11112 BELLFLOWER	\$25.00	\$10.00	\$35.00
<input type="checkbox"/>	CL72263759	PAID 03/01/2005	08/11/2004 04:30PM	45302 METER EXPIRED	No	1900 SUPERIOR	\$25.00	\$10.00	\$0.00
<input type="checkbox"/>	CL63579064	PAID 09/24/2003	04/23/2003 10:40AM	45103N NO PARKING ANYTIME	No	1220HURON	\$25.00	\$10.00	\$0.00
<input type="checkbox"/>	CL60593803	PAID 09/24/2003	01/30/2003 01:37PM	45302 METER EXPIRED	No	2001 SUPERIO	\$20.00	\$10.00	\$0.00
<input type="checkbox"/>	CL60865409	PAID 09/24/2003	10/04/2002 03:46PM	45118B+ CAB STAND	No	BRIDGE W25	\$20.00	\$10.00	\$0.00
<input type="checkbox"/>	CL52359090	PAID 09/24/2003	07/20/2000 09:31AM	45302 METER EXPIRED	No	1801 E 9TH	\$20.00	\$5.00	\$0.00
<input type="checkbox"/>	CL52279474	PAID 08/17/2000	05/17/2000 05:15PM	45302 METER EXPIRED	No	E18SUPERIOR	\$20.00	\$10.00	\$0.00

Home Help Log Off Print

Choose Process PROCESS SELECTED ITEMS Filter Tickets By PRINT LIST

*Bal. \$1200.00*  
*AGS ad FW*  
*5.02 us*  
*cc*

Add a Ticket | Restore a Ticket | Show Related Entities | Tow Tracking

**Quick Process**

- All: 8 (\$830.00)
- Open Tickets: 7 (\$830.00)
- Boot Eligible Tickets: 7 (\$830.00)
- Marked/Held Tickets: 3 (\$190.00)

**Customer**

John Petkovic  
8620 Pinehurst Dr  
Parma, OH 44129-6429  
**Address Source:** Registry

**Ticket Type:** Park  
**Plate:** OHECG8091 04/05/2007

**Financial Summary**

Ticket Amount: \$830.00  
Fee Amount: \$0.00  
**Total Due: \$830.00**  
Unapplied Amt: \$0.00

**Customer Status**

Tow Eligible  
Assigned

**SUMMARY** **PENALTY** **PAYMENTS** **NOTICES** **HEARINGS** **SUSPENDS** **CORRESPONDENCE**

All	Ticket#	Status/Date	Issued on	Violation Code/Description	Other/Violation	Location	Fine Amt	Penalties	Total Due
<input type="checkbox"/>	CL69419125	NONRENEW 12/16/2010	06/11/2010 12:32AM	45118B BUS STOP	No	E4 HURON	\$50.00	\$30.00	\$80.00
<input type="checkbox"/>	M001341809 LDC	UNPAID 01/23/2009	01/23/2009 09:39AM	413031C2A MOBILE RADAR SPEED	Yes	OPP 2218 Superior Ave W/B	\$100.00	\$60.00	\$160.00
<input type="checkbox"/>	M001288065 LDC	UNPAID 12/12/2008	12/12/2008 10:09AM	413031C2A MOBILE RADAR SPEED	Yes	OPP 2218 Superior Ave W/B	\$100.00	\$60.00	\$160.00
<input type="checkbox"/>	CL80164114	NONRENEW 12/16/2010	12/31/2008 02:26PM	45302 METER EXPIRED	No	1370 W6ST	\$25.00	\$30.00	\$55.00
<input type="checkbox"/>	M001209720 LDC	UNPAID 10/22/2008	10/22/2008 10:17AM	413031C2A MOBILE RADAR SPEED	Yes	OPP 2218 Superior Ave W/B	\$100.00	\$60.00	\$160.00
<input type="checkbox"/>	M000856318 LDC	UNPAID 02/12/2008	02/12/2008 09:07AM	413031C2A MOBILE RADAR SPEED	Yes	2435 ST. CLAIR AVE W/B	\$100.00	\$60.00	\$160.00
<input type="checkbox"/>	CL78579117	NONRENEW 12/16/2010	12/28/2007 03:42PM	45302 METER EXPIRED	No	1903 W 25TH	\$25.00	\$30.00	\$55.00

Home  
Help  
Log Off  
Print

**Quick Process**

All: 10 (\$390.00)  
 Open Tickets: 4 (\$390.00)  
 Boot Eligible Tickets: 4 (\$390.00)  
 Marked/Held Tickets: (\$0.00)

**Customer**

Petkovic John  
 8620 Pinehurst Dr  
 Parma, OH 44129  
**Address Source:** Manual

**Financial Summary**

Ticket Amount: \$390.00  
 Fee Amount: \$0.00  
**Total Due: \$390.00**  
 Unapplied Amt: \$0.00

**Customer Status**

Assigned

Choose Process

Quick Process

**Ticket Type:** Park  
**Plate:** OHASJ7322 07/13/1998

Ticket #	Status/Date	Issued On	ViolationCode/Description	Other Viol	Location	Fine Amt.	Penalties	Total Due
M000385595	UNPAID 03/23/2007	03/23/2007 03:00PM	413031C2A MOBILE RADAR SPEED	Yes	2121 ST. CLAIR AV W/B	\$100.00	\$60.00	\$160.00
F002626368	UNPAID 09/12/2006	09/12/2006 10:03AM	413031C3A FIXED POLE SPEED	Yes	6900 block Woodland Av e/b	\$100.00	\$60.00	\$160.00
<del>CL74163825</del>	UNPAID 07/27/2005	07/27/2005 03:55PM	45302 METER EXPIRED	No	1900 SUPERIOR	\$25.00\$10	.00	\$35.00
<del>CL73800567</del>	UNPAID 05/12/2005	05/12/2005 10:46AM	45302 METER EXPIRED	No	11112 BELLFLOWER	\$25.00\$10	.00	\$35.00
CL72263759	PAID 03/01/2005	08/11/2004 04:30PM	45302 METER EXPIRED	No	1900 SUPERIOR	\$25.00\$10	.00	\$0.00
CL63579064	PAID 09/24/2003	04/23/2003 10:40AM	45103N NO PARKING ANYTIME	No	1220HURON	\$25.00\$10	.00	\$0.00
CL60593803	PAID 09/24/2003	01/30/2003 01:37PM	45302 METER EXPIRED	No	2001 SUPERIO	\$20.00\$10	.00	\$0.00
CL60865409	PAID 09/24/2003	10/04/2002 03:46PM	45118B+ CAB STAND	No	BRIDGE W25	\$20.00\$10	.00	\$0.00
CL52359090	PAID 09/24/2003	07/20/2000 09:31AM	45302 METER EXPIRED	No	1801 E 9TH	\$20.00	\$5.00	\$0.00
CL52279474	PAID 08/17/2000	05/17/2000 05:15PM	45302 METER EXPIRED	No	E18SUPERIOR	\$20.00\$10	.00	\$0.00

**Quick Process**

All: 8 (\$830.00)  
 Open Tickets: 7 (\$830.00)  
 Boot Eligible Tickets: 7 (\$830.00)  
 Marked/Held Tickets: 3 (\$190.00)

**Customer**

John Petkovic  
 8620 Pinehurst Dr  
 Parma, OH 44129-6429  
**Address Source:** Registry

**Financial Summary**

Ticket Amount: \$830.00  
 Fee Amount: \$0.00  
**Total Due: \$830.00**  
 Unapplied Amt: \$0.00

**Customer Status**

Tow Eligible  
 Assigned

~~Quick Process~~

~~Quick Process~~

**Ticket Type:** Park  
**Plate:** OHECG8091 04/05/2007

<del>Quick Process</del>	Ticket #	Status/ Date	Issued On	ViolationCode/ Description	Other Viol	Location	Fine Amt.	Penalties	Total Due
<del>*</del>	CL69419125	NONRENEW 12/16/2010	06/11/2010 12:32AM	45118B BUS STOP	No	E4 HURON	\$50.00	\$30.00	\$80.00
<del>*</del>	M001341809	UNPAID 01/23/2009	01/23/2009 09:39AM	413031C2A MOBILE RADAR SPEED	Yes	OPP 2218 Superior Ave W/B	\$100.00	\$60.00	\$160.00
<del>*</del>	M001288065	UNPAID 12/12/2008	12/12/2008 10:09AM	413031C2A MOBILE RADAR SPEED	Yes	OPP 2218 Superior Ave W/B	\$100.00	\$60.00	\$160.00
<del>*</del>	CL80164114	NONRENEW 12/16/2010	12/31/2008 02:26PM	45302 METER EXPIRED	No	1370 W6ST	\$25.00	\$30.00	\$55.00
<del>*</del>	M001209720	UNPAID 10/22/2008	10/22/2008 10:17AM	413031C2A MOBILE RADAR SPEED	Yes	OPP 2218 Superior Ave W/B	\$100.00	\$60.00	\$160.00
<del>*</del>	M000856318	UNPAID 02/12/2008	02/12/2008 09:07AM	413031C2A MOBILE RADAR SPEED	Yes	2435 ST. CLAIR AVE W/B	\$100.00	\$60.00	\$160.00
<del>*</del>	CL78579117	NONRENEW 12/16/2010	12/28/2007 03:42PM	45302 METER EXPIRED	No	1903 W 25TH	\$25.00	\$30.00	\$55.00

OHIO DEPARTMENT OF PUBLIC SAFETY  
BUREAU OF MOTOR VEHICLES

11694

**DETER SYSTEM CLEARANCE**

Drivers with Excessive Tickets Excluded from Registration

VIOLATIONS BUREAU NAME CLEVELAND		VIOLATIONS BUREAU # 0001	
PAYMENT DATE 3-11-11		LICENSE PLATE # ECG 8091	
REGISTRANT NAME John Petkovic			
REGISTRANT STREET ADDRESS 6620 Pinehurst Dr			
CITY PARMA	STATE OH	ZIP CODE 44129	

AUTHORIZED BY: (PLEASE PRINT) <i>[Signature]</i>	AUTHORIZED BY: (SIGNATURE) X <i>[Signature]</i>
---	--

The signature above represents to the Bureau of Motor Vehicles that all judgments shown here have been satisfied per ORC Section 4509.40.

REGISTRATION MAY BE OBTAINED AFTER 2 BUSINESS DAYS FROM PAYMENT DATE IF THIS FORM IS FAXED UNDER CURRENT FAXING GUIDELINES OR 10 BUSINESS DAYS FROM PAYMENT DATE IF THIS FORM IS PRESENTED TO A DEPUTY REGISTRAR AGENCY, UNLESS JUDGMENTS EXIST WITH OTHER OHIO TRAFFIC VIOLATION BUREAUS.

Official Use Only

Providing this form will CLEAR ALL PARKING VIOLATIONS for the violator within YOUR JURISDICTION.

