

IN THE SUPREME COURT OF OHIO

State ex rel. Anthony C. Christoff, et al.,)	CASE NO. 2011-0235
)	
Relators,)	
vs.)	
)	Original Action
Earle B. Turner, et al.)	
)	
Respondents.)	

**RESPONDENTS' BRIEF IN OPPOSITION TO RELATORS'
MOTION FOR ORAL ARGUMENT**

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Respondents oppose Relators' motion for oral argument for the reason that review of the briefs placed before this Court establishes that Relators have not properly framed a Complaint that states a cognizable claim for either the writ of prohibition or the writ of mandamus being sought in this original action. Relators' motion for oral argument rehashes in abbreviated format incorrect legal arguments previously placed before this Court. Relators' arguments do not raise genuine issues of great public importance, complex issues of law or fact, or substantial constitutional issues.

Relators motion for oral argument again incorrectly seeks to limit Respondents' reliance on *State ex rel. Scott v. City of Cleveland* 112 Ohio St.3d 324, 2006-Ohio-6573 and *Mendenhall v. City of Akron*, 117 Ohio St.3d 33, 2008-Ohio-270. *Mendenhall's* syllabus holding establishes that "[a]n Ohio municipality does not exceed its home rule authority when it creates an automated system for enforcement of traffic laws that imposes civil liability upon violators,

provided that the municipality does not alter statewide traffic regulations.” Relators motion again incorrectly advances the argument that the administrative civil hearing process established by CCO 413.031¹ violates the jurisdiction of the local municipal court established at R.C. 1901.20(A)(1). The analysis undertaken in *Scott* and *Mendenhall* does not support any such argument. In both decisions this Court upheld municipal authority for enacting the camera enforcement ordinances,² with full appreciation and recognition that such ordinances established the administrative, “quasi-judicial” appeals for which Relators seek a writ of prohibition:

“Section 413.031 authorizes an administrative proceeding that does not require compliance with statutes and rules that, by their own terms, are applicable only to courts.” *Scott, supra*, 2006 -Ohio- 6573, at ¶ 21.

“Finally, because the city does not patently and unambiguously lack jurisdiction, appellants have 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.” *Id.* at ¶ 24, citing *See, e.g., State ex rel. Chagrin Falls v. Geauga Cty. Bd. of Commrs.*, 96 Ohio St.3d 400, 2002-Ohio-4906, 775 N.E.2d 512, ¶ 14.

In *Mendenhall* this Court later recognized, at ¶ 42:

“[A]n automated mobile speed-enforcement system, does not conflict with state law because it does not alter or supersede state law. The ordinance provides for a complementary system of civil enforcement that, rather than decriminalizing behavior, allows for the administrative citation of vehicle owners under specific circumstances.”

CCO 413.031 is not a criminal ordinance and provides an adequate remedy to Relators and others in the ordinary course of the law through the quasi-judicial administrative proceedings it

¹ A similar argument is being contemporaneously advanced by counsel for Relators against the Columbus camera ordinances in *State ex rel Debra S. Turner et al v. Mitchell J. Brown, Director, Department of Public Safety*, Ohio Sup Ct. case no. 2011-0275.

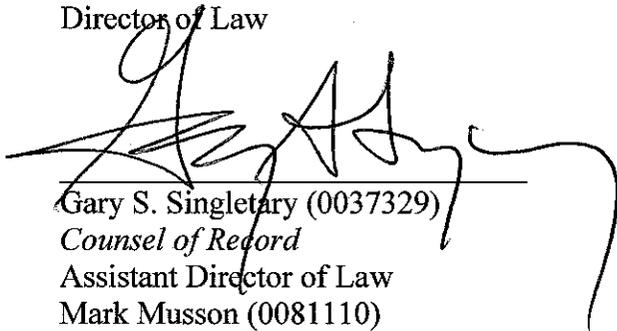
² “Thus, a municipality may regulate in an area such as traffic whenever its regulation is not in conflict with the general laws of the state.” *Linndale v. State* (1999), 85 Ohio St.3d 52, 54, 706 N.E.2d 1227. Section 413.031 represents Cleveland's attempt to regulate on the subject of local traffic.’ *Scott* at ¶ 19.

established. The ordinance does not usurp the statutory criminal jurisdiction of municipal courts established at R.C. 1901.20(A)(1).

The authorization in CCO 413.031 to utilize the City's existing Parking Violation Bureau hearing examiners to also hear administrative civil appeals arising from contested moving violations caught by the City's automated traffic enforcement cameras does not suggest, much less establish, the existence of a conflict between the City ordinance and the State's general laws. A municipal ordinance conflicts with a general law only if the ordinance permits something that the statute forbids or forbids something that the statute permits. *Fondessy Enters., Inc. v. Oregon* (1986), 23 Ohio St. 3d 213, 492 N.E.2d 797, (syllabus ¶ 2). The quasi-judicial hearing authority for moving violations contained in CCO 413.031 is separate from and does not conflict with the parking violations statutes contained in RC Chapter 4521.

Oral argument will not alter the governing reality in this matter that Relators have failed to state cognizable prohibition and mandamus claims. The written briefs in this matter sufficiently address the issues presented. Relators' motion for oral argument should be denied.

Respectfully submitted,
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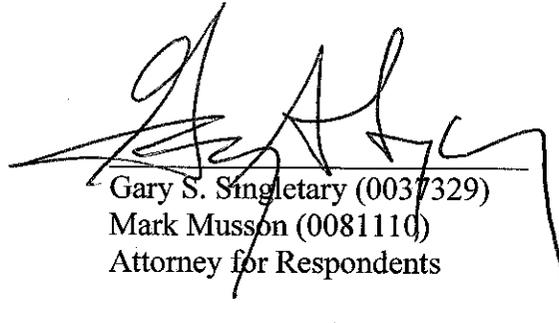
CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of Respondents Brief in Opposition to Relators' Motion for Oral Argument was served by regular U.S. Mail this 2nd day of April 2011

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