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Calvaruso v. Brown

Supreme Court of Ohio - March 19, 2014 - N.E.3d - 2014 -Ohio- 1018

Six of the nine Akron Police Department captains, who claimed that they were each qualified to hold the positions of deputy police chief and acting police chief, brought action seeking writ of quo warranto to oust assistant to city mayor from his alleged assignments as acting chief of police and de facto deputy chief.

In this quo warranto case, relators are six of the nine Akron Police Department captains, who claim that they are each qualified to hold the positions of deputy police chief and acting police chief. They seek to oust Charles Brown, an assistant to the mayor of Akron, from the positions of de facto deputy chief and acting chief of police.

The Supreme Court of Ohio held that:

- Acting chief of police was not a public office, and
- Assistant did not hold office of deputy chief.

Acting chief of city police department was not a “public office” to which anyone had a right, but instead was a temporary assignment filled only when city police chief was briefly absent, and thus city police captains were not entitled to writ of quo warranto to oust assistant to city mayor who held assignment. “Acting chief of police” was not an official appointment to an office for the remainder of the term or until the next election, it was an assignment to act in the chief’s stead while he was away from the office for a few days.

Assistant to city mayor did not hold office of de facto deputy chief of police, and thus police captains were not entitled to writ of quo warranto to oust assistant. Although assistant was performing some duties that were normally performed by deputy chief, and although assistant had assumed the title of “assistant chief of police,” a position that did not exist in either the police division manual or the city charter, assistant did not claim to hold office of deputy chief, and to the extent captains were challenging the legality of assistant’s exercise of deputy chief’s duties, quo warranto did not lie.