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JUDICIAL CENTER YORK PA

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

CLAYTON SWARTZ,	:	NO.: 2021-SU-001642
	:	
v.	:	
	:	MANDAMUS
THE CITY OF YORK and MICHAEL	:	
HELFRICH, as Mayor	:	

MEMORANDUM OPINION

Mandamus is an extraordinary writ which lies to compel the performance of a mandatory duty or a ministerial act only where there is (1) a clear legal right in the plaintiff, (2) a corresponding duty in the defendant, and (3) no other appropriate or adequate remedy. *Anderson v. Shaffer*, 39 Pa. Commonwealth Ct. 636, 396 A.2d 91 (1979). An objection which alleges the failure to pursue an adequate alternative remedy, therefore, raises a question of jurisdiction and is properly pleaded as a preliminary objection. *See Packler v. State Employees' Retirement Board*, 33 Pa. Commonwealth Ct. 452, 382 A.2d 158 (1978), *aff'd*, 487 Pa. 51, 408 A.2d 1091 (1979) (existence of adequate statutory remedy deprives court of jurisdiction over an action in mandamus).

Merritt v. W. Mifflin Area Sch. Dist., 56 Pa. Commw. 126, 128-29, 424 A.2d 572, 573-74 (1981). Simply stated, this Court lacks subject matter jurisdiction over the instant complaint in mandamus. The City of York has previously filed an appeal from the decision of the Trial Board, which is pending before this Court and scheduled for trial to commence July 11, 2022. Thus, Officer Swartz has, and is exercising, another appropriate remedy to address his ongoing employment dispute. Accordingly, we lack jurisdiction over the mandamus action and must sustain the City's preliminary objections.

Because we have dismissed the complaint with prejudice, we must also note that there exists no factual allegation Officer Swartz can make in an amended complaint which would change our holding regarding our lack of subject matter jurisdiction. Further, we

must note that Officer Swartz' request for mandamus fails because his right to compel his return to work is anything but clear. While he did obtain an arbitration award, the award is a legal nullity to this Court as the arbitrator ignored this Court's limitations for the scope of his consideration.

Lastly, we dismiss Officer Swartz' invasion of privacy claim with prejudice as well. We find no merit in Officer Swartz' claim in light of the materials alleged released to the public. As noted by Officer Swartz in his brief in opposition, the right to privacy is not absolute. The only material alleged to have been released from his personnel file is a one-page letter to him advising him of his status as being placed on paid leave. Officer Swartz alleges this letter was released to one reporter, but does not allege it was release in its entirety beyond that, i.e. to the general public. Interestingly, while Officer Swartz claims that the release of this document was an invasion of his privacy, he files it as a public exhibit to a public court filing, without redaction or protection as a confidential document. We simply cannot justify further court action in light of these circumstances.

For these reasons, we sustain the City of York's preliminary objections and dismissed Clayton Swartz' complaint by separate order.

BY THE COURT:


MATTHEW D. MENGES, JUDGE