

HOW WE SEE IT**Appeals court ruling doesn't address Judge Kobly's point**

If the 2-1 ruling by the 7th District Court of Appeals stands, judges of the Youngstown Municipal Court will be at the mercy of their Common Pleas Court colleagues when it comes to the management of their inmates in the county jail.

Do judges Robert Douglas, Robert Milich and Elizabeth Kobly have a right to determine which of their prisoners should remain behind bars — even when an emergency release program is instituted due to jail overcrowding? We believe they do.

But the appeals court has concluded otherwise. Judges Gene Donofrio and Joseph Vukovich said in their majority opinion in a case involving Judge Kobly that the Ohio General Assembly long ago gave common pleas courts exclusive authority over jail operations.

Thus, Donofrio and Vukovich upheld the legality of an emergency release mechanism for county jail inmates ordered by the Mahoning County Common Pleas Court as a way of alleviating overcrowding.

In March 2005, U.S. District Court Judge David D. Dowd Jr. ruled that the overcrowding and understaffing at the jail violated inmates' constitutional rights. He issued directives to address the problems. The emergency release mechanism is one of the solutions developed by the common pleas judges.

It "provides a logical mechanism to furlough inmates until such time as there is room for them to serve the remainder of their sentences and to bring the jail into constitutional compliance," Donofrio and Vukovich wrote.

In addition, they blocked Judge Kobly from forcing Sheriff Randall Wellington to appear before her to explain why he released a prisoner she specifically wanted kept behind bars.

Written order

The judge had made it clear in writing that Ronald A. Tomlin was not to be released from jail. Tomlin had been convicted of domestic violence and was sentenced to seven days behind bars. However, because of a paperwork foul up in the sheriff's department, the prisoner was released. After the sheriff found out that Tomlin had been freed in error, he ordered deputies to find him. He was rearrested and was returned to jail.

But Judge Kobly argues that what happened to Tomlin is indicative of the problems that are arising as a result of the emergency release policy. She contends that because municipal court judges hear misdemeanor cases only, the jail sentences they impose aren't given the same importance as those handed down by the common pleas court judges.

Kobly had wanted Wellington to not only answer her questions about Tomlin, but to discuss the larger issue of inmate management. She contends that the release mechanism is modifying her sentence orders.

Indeed, appeals court Judge Mary DeGenaro said in her dissent that Kobly should not be prohibited from "exercising her lawful contempt powers" even if the she were ultimately unable to find Sheriff Wellington in contempt.

And so the question: Should the municipal court let the appeals court's ruling stand, or should Kobly and her colleagues seek a definitive ruling from the Ohio Supreme Court?

We believe that it is appropriate for the city of Youngstown to test the constitutionality of the law passed by the Ohio General Assembly that, in effect, gives common pleas courts the power to interfere with the sentencing authority of lower court judges.