

# MEMORANDUM DECISION

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## APPELLANT PRO SE

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# IN THE COURT OF APPEALS OF INDIANA

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Michael J. McManus,  
*Appellant-Plaintiff,*

v.

Carl H. Baxmeyer, in his capacity as President of the St. Joseph County Board of Commissioners, Derek D. Dieter, in his capacity of the Vice-President of the St. Joseph County Board of Commissioners, Deborah A. Fleming, in her capacity as Member of the St. Joseph County Board of Commissioners, St. Joseph County Commissioners, St.

February 21, 2024

Court of Appeals Case No.  
23A-PL-1511

Appeal from the  
St. Joseph Circuit Court

The Honorable  
William L. Wilson, Magistrate

Trial Court Cause No.  
71C01-2304-PL-94

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Joseph County Council, and St.  
Joseph Redevelopment  
Commission,  
*Appellees-Defendants.*

**Memorandum Decision by Judge Foley**  
Judges Pyle and Tavitas concur.

**Foley, Judge.**

- [1] Michael J. McManus (“McManus”) sued several public bodies and officials (“the Defendants”), alleging that two commissioners on the St. Joseph County Redevelopment Commission (“the Commission”) had been removed contrary to statute. The trial court granted the Defendants’ motion for judgment on the pleadings, and McManus appeals. Conducting statutory interpretation and concluding that the complaint does not state a viable claim for relief, we affirm.

**Facts and Procedural History**

- [2] On April 13, 2023, McManus filed a complaint against the Defendants.<sup>1</sup> McManus alleged that two individuals had been appointed to the Commission

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<sup>1</sup> The Defendants consist of the Commission, the St. Joseph County Council, the St. Joseph County Commissioners, and the following individuals, who were sued in their official capacities: Carl H. Baxmeyer, Derek D. Dieter, and Deborah A. Fleming.

and, before they served on the Commission for one year, the St. Joseph County Board of Commissioners (“the Board”) removed them by unanimous vote. McManus claimed that this procedure violated provisions of the Indiana Code. McManus further claimed that he was “a resident and citizen of St. Joseph County, Indiana,” and, therefore, he “ha[d] standing to bring this action” for the alleged violation of Indiana law. Appellant’s App. Vol. II p. 17. McManus acknowledged that Indiana Code Section 36-7-14-9(b) provides that “[t]he county executive”—i.e., the Board—“may summarily remove a county redevelopment commissioner from office at any time.” However, McManus asserted that the Board was nevertheless constrained by the following statute:

Each redevelopment commissioner shall serve for one (1) year from the first day of January after the commissioner’s appointment and until the commissioner’s successor is appointed and has qualified, except that the original commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment. If a vacancy occurs, a successor shall be appointed in the same manner as the original commissioner, and the successor shall serve for the remainder of the vacated term.

Ind. Code § 36-7-14-7(a). According to McManus, despite Indiana Code Section 36-7-14-9(b) broadly allowing the Board to remove a person from the Commission “at any time,” the Board could not exercise this authority because the other statute provides that a commissioner “shall serve” a one-year term.

[3] The Defendants moved for judgment on the pleadings under Trial Rule 12(C), arguing there was no way McManus could prevail on his complaint because (1)

he lacked standing and (2) the statutes at issue were “clear and unambiguous,” providing no grounds for relief. Appellant’s App. Vol. II p. 53. The trial court entered a written order granting the motion. Although the trial court began to discuss whether McManus had standing to seek declaratory and injunctive relief, the trial court proceeded to the statutory issue by “assuming” without deciding that McManus “ha[d] standing[.]” *Id.* at 11; *see also id.* at 13. As to the statutory issue, the trial court determined that the Defendants were entitled to judgment on the pleadings because McManus’s “theory of the case” depended on an “illogical” reading of the statutes.<sup>2</sup> *Id.* at 13. McManus now appeals.

## Discussion and Decision

[4] McManus appeals the order granting the Defendants’ motion for judgment on the pleadings under Trial Rule 12(C). This type of motion tests the “legal viability” of claims or defenses raised in the pleadings. *Bayer Corp. v. Leach*, 147 N.E.3d 313, 314 (Ind. 2020). In ruling on a Trial Rule 12(C) motion, a trial court must “accept as true the material facts alleged in the complaint.” *Id.* (quoting *KS&E Sports v. Runnels*, 72 N.E.3d 892, 898 (Ind. 2017)). Moreover, a Defendant is entitled to judgment on the pleadings “only when it is clear from the face of the pleadings that the plaintiff cannot in any way succeed under the operative facts and allegations made therein.” *Id.* (quoting *Noblesville Redev.*

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<sup>2</sup> We thank Magistrate William L. Wilson for the particularly well-written order, which greatly aided in our review.

*Comm'n v. Noblesville Assocs. Ltd. P'ship*, 674 N.E.2d 558, 562 (Ind. 1996)). We review the trial court's ruling de novo. *KS&E Sports*, 72 N.E.3d at 898.

[5] In seeking judgment on the pleadings, the Defendants argued that there was no way McManus could succeed on his complaint because McManus (1) lacked standing to bring his claims and (2) he failed to state a viable claim for relief. Because “we may affirm the trial court’s judgment on a [Trial] Rule 12(C) motion on any theory supported by the record,” we need not address the standing issue if we conclude—as the trial court did—that McManus failed to state a viable claim for relief. *Jones v. Oakland City Univ.*, 122 N.E.3d 911, 918 (Ind. Ct. App. 2019), *trans. denied*. Here, McManus’s claims depended on his interpretation of two provisions of the Indiana Code. Thus, to determine whether the complaint states a viable claim, we must engage in statutory interpretation. We interpret statutes de novo. *KS&E Sports*, 72 N.E.3d at 898. Regarding statutory interpretation, our Supreme Court recently explained:

When we interpret a statute, our first task is to “give its words their plain meaning and consider the structure of the statute as a whole.” *ESPN, Inc. v. Univ. of Notre Dame Police Dep’t*, 62 N.E.3d 1192, 1195 (Ind. 2016) (citation omitted). We take account of what the statute does not say, as well as what it does. *Id.* If ambiguity remains, we seek the legislature’s intent in enacting the statute. *Id.* at 1196. In discerning this intent, “we consider the objects and purposes of the statute as well as the effects and repercussions of our interpretation.” *State v. Int’l Bus. Machines Corp.*, 964 N.E.2d 206, 209 (Ind. 2012) (internal quotation marks and citation omitted). We also consider how other statutes bear upon the subject. *Id.*

*Harris v. State*, 211 N.E.3d 929, 937 (Ind. 2023).

[6] Here, McManus claims that, contrary to statute, the Board removed two individuals from the Commission before those individuals served on the Commission for one year. McManus focuses on the following statute:

Each redevelopment commissioner shall serve for one (1) year from the first day of January after the commissioner’s appointment and until the commissioner’s successor is appointed and has qualified, except that the original commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment. If a vacancy occurs, a successor shall be appointed in the same manner as the original commissioner, and the successor shall serve for the remainder of the vacated term.

I.C. § 36-7-14-7. According to McManus, because the statute provides that each commissioner “shall serve for one (1) year” upon their appointment, no commissioner can be removed before the commissioner has served for one year.

[7] The Defendants point out that McManus’s proffered reading of Indiana Code Section 36-7-14-7 renders meaningless a different statute in the chapter. They direct us to Indiana Code Section 36-7-14-9(b), which provides that “[t]he county executive may summarily remove a county redevelopment commissioner from office *at any time*.” (emphasis added).<sup>3</sup> They point out that,

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<sup>3</sup> The parties do not dispute that the “county executive” is the Board. See Appellant’s App. Vol. II p. 21 ¶ 12.

because a commissioner's term is for one year, under McManus's reading of these statutes, there would be no way for the Board to remove a commissioner.

[8] In *ESPN, Inc.*, the Indiana Supreme Court discussed several principles of statutory interpretation. The Court explained that, "when engaging in statutory interpretation, we 'avoid an interpretation that renders any part of the statute meaningless or superfluous.'" *ESPN, Inc.* 62 N.E.3d at 1199 (quoting *Hatcher v. State*, 762 N.E.2d 189, 192 (Ind. Ct. App. 2002)). The Court also explained that specific statutory provisions take priority over general statutory provisions. *Id.*

[9] Applying these principles, we reject McManus's reading of the statutes, which would render meaningless Indiana Code Section 36-7-14-9(b), the more specific statute regarding the removal process. We instead conclude that the statutory scheme permits the Board to remove a commissioner at any time. Because the complaint depends on inaccurate statutory interpretation, we conclude that the Defendants were entitled to judgment on the pleadings under Trial Rule 12(C). We affirm the trial court on this basis and decline to address any other issue.

[10] Affirmed.

Pyle, J., and Tavitas, J., concur.