

When It Comes to Writs of Administrative Mandamus, the Appealability Rules Are Confused

Tim Kowal June 01, 2023



When challenging an agency action via a writ of administrative mandamus, the trial court's ruling is the appealable order. If you are going to appeal, do not wait around for a judgment, or you could be too late (like in [this previous case](#)).

But that is not what happened in the mandamus case of [County of Santa Cruz v. Santa Cruz County Civil Service Commission](#) (D6 May 5, 2023 no. HO49856) 2023 WL 3267749 (nonpub. opn.). The case involved allegations that a sheriff's deputy, Kelly Kent, failed to properly act on allegations of sexual misconduct against a correctional officer at the county jail. The Civil Service Commission overruled the sheriff's demotion, and instead imposed a three-day suspension. The sheriff and the county filed a petition in the Superior Court for administrative mandamus.

After a hearing, the court granted the writ via minute order, ordering the commission to set aside its decision and demote Kent rather than suspend him. That was in November 2021.

But three months later in February 2022, the court entered its statement of decision. Kent appealed from the statement of decision on March 4.

So which was the appealable order? Last year in *Meinhardt v. City of Sunnyvale* (2022) 76 Cal.App.5th 43, the Fourth District Court of Appeal held that an order on a writ of mandamus was the appealable order—waiting for a later judgment was too late. (But the Supreme Court granted review in *Meinhardt*.)

And a statement of decision ordinarily is not an appealable order. (*Alan v. American Honda Motor Co., Inc.* (2007) 40 Cal.4th 894, 901.)

Here is how the Sixth District came down:

[W]e are satisfied that the trial court's February 1, 2022 statement of decision determined the rights of the parties and disposed of all issues in this case, constituting a final and appealable judgment. (See *Dhillon v. John Muir Health* (2017) 2 Cal.5th 1109, 1115; *Griset v. Fair Political Practices Com.* (2001) 25 Cal.4th 688, 698; § 904.1, subd. (a); cf. *County of Los Angeles v. Los Angeles County Civil Service Com.* (2018) 22 Cal.App.5th 174, 185–188.)

Comment: These cases that conclude that orders that ordinarily are not appealable—like orders sustaining demurrers, orders granting summary judgment, or statements of decision—are appealable, should make you nervous. When the courts are consistent that such orders are not appealable, there is no need to worry about taking an appeal from them: you know you need to wait for a final, appealable order. But when courts hint that they MIGHT be appealable, you need to consider taking an appeal, in an abundance of caution.

Let's hope the Supreme Court gives some guidance when it takes up the appealability of orders on administrative writs of mandamus in *Meinhardt*.

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