[J-70-2025]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

TODD, C.J., DONOHUE, DOUGHERTY, WECHT, MUNDY, BROBSON, McCAFFERY, JJ.

CITY OF PHILADELPHIA,	:	No. 59 EAP 2024
	:	
Appellant	:	Appeal from the Order of the
	:	Commonwealth Court entered
	:	January 8, 2024, at No. 39 CD 2023,
v.	:	affirming the Order of the Court of
	:	Common Pleas of Philadelphia
	:	County, Civil Division, entered on
FRATERNAL ORDER OF POLICE, LODGE NO. 5,	:	December 13, 2022, at No. 2544
	:	
	:	ARGUED: September 11, 2025
Appellee	:	

OPINION

JUSTICE DONOHUE **DECIDED: October 29, 2026**

Appellant the City of Philadelphia ("City"), asks the Court to overturn *Pennsylvania State Police v. Pennsylvania State Troopers' Ass'n (Betancourt)*, 656 A.2d 83 (Pa. 1995), or, alternatively, to overturn *Pennsylvania State Police v. Pennsylvania State Troopers' Ass'n (Smith)*, 741 A.2d 1248 (Pa. 1999). *Betancourt* held that appeals of grievance arbitration awards rendered pursuant to the Policemen and Firemen Collective Bargaining Act[1] are subject to the narrow certiorari scope of review.[2] *Betancourt*, 656 A.2d at 89. *Smith*, decided four years after *Betancourt*, declined to add a limited public policy

[1] Act of June 24, 1968, P.L. 237, *as amended*, 43 P.S. §§ 217.1-217.12 ("Act 111").

[2] "The narrow certiorari scope of review limits a reviewing court to questions regarding: (1) the jurisdiction of the arbitrators; (2) the regularity of the proceedings; (3) an excess of the arbitrator's powers; and (4) deprivation of constitutional rights." *Betancourt*, 656 A.2d at 85.

exception to the narrow certiorari scope of review. *Smith*, 741 A.2d at 1252-53. In reliance on the doctrine of stare decisis, we uphold our decisions in *Betancourt* and *Smith* and affirm the judgment of the Commonwealth Court.

I. Background

Marc Hayes is a lieutenant in the City's Police Department responsible for supervising officers in the City's 24th Police District. On August 13, 2018, Hayes sent multiple inappropriate and sexual text messages to two female officers ("Officer One" and "Officer Two") under his supervision. In the texts, Hayes made numerous sexual innuendos, boasted about his sexual prowess, discussed Officer One's use of the restroom, and sent a video showing a dog performing oral sex on a woman.

On October 30, 2018, an anonymous letter was found at District Headquarters which claimed that Hayes sent the sexually explicit bestiality video to two subordinate officers during work hours. The Police Department forwarded the letter to its Internal Affairs Bureau ("IAB"), which investigated the allegation through its Investigative Support Services ("ISS") and Equal Employment Opportunity ("EEO") teams. Representatives of the ISS and EEO interviewed Officers One and Two and reviewed the text messages between Hayes and the officers, including the bestiality video. The City claims that on October 31, 2018, the day after receipt of the anonymous letter, Hayes attempted to influence the statement of Officer One by telling her that she could tell the investigators that she could not recall anything. City's Brief at 12. The City also claims that Hayes approached Officer Two in the hallway later that day and, after asking her whether she still had the video on her phone, mentioned that he submitted her name for a promotion. *Id*.

After its investigation, the City charged Hayes with violations of four different sections of the collectively bargained Disciplinary Code:

> Article I: Conduct Unbecoming, Section 1-§024-10: Any act, conduct, or course of conduct which objectively constitutes sexual harassment.
>
> Article I: Conduct Unbecoming, Section 1-§021-10: Any incident, conduct, or course of conduct which indicates that an employee has little or no regard for his/her responsibility as a member of the Police Department.
>
> Article I: Conduct Unbecoming, Section 1-§025-10: On duty or job-related inappropriate sexually based communication(s) conveyed in any manner.
>
> Article VIII: Failure to Supervise, Section 8-§003-10: Failure to properly supervise subordinates.

Philadelphia Police Department Disciplinary Code, July 2014, at 10, 12, 37. On July 9, 2020, the City's Police Commissioner determined that Hayes committed each offense and that he should be dismissed from the Department. The Commissioner ordered that Hayes be suspended for thirty days with the intent to dismiss.

Hayes, by and through the Fraternal Order of Police, Lodge No. 5 ("FOP"), challenged his termination by filing a grievance, demanding arbitration as provided by the parties' Collective Bargaining Agreement ("CBA").[3] The parties stipulated that the issues to be decided at arbitration were whether the City had just cause to discharge Hayes, and if not, what the remedy should be. The arbitration consisted of hearings on June 17, and June 22, 2022, where the arbitrator heard testimony from Lieutenant Brent Conway and Detective Jeanette Smith, each of whom investigated the matter. Officer One and Hayes also testified at the arbitration.[4]

In rendering his decision, the arbitrator first noted that the City had to prove by a preponderance of credible evidence that Hayes committed the charged offenses.

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[3] The parties agreed to select David J. Reily, Esq. to preside over the arbitration. Arbitration Opinion, 7/22/2022, at 9.

[4] Office Two did not testify at the arbitration. Arbitration Opinion, 7/22/2022, at 6 n.8. The transcript of the arbitration proceedings, if it exists, is not a part of the record.

Arbitration Opinion, 7/22/2022, at 14. Concerning the sexual harassment charge, the arbitrator relied on the City's Department Directive 8.7, which provides, that "[i]t is sexual harassment if one employee attempts to impose their sexual desires, will or wish, fantasy or preference on another employee through an offensive act, deed, gesture or comment and such conduct interferes with the employee's terms or conditions of employment." Department Directive 8.7-2, 10/21/2011. The arbitrator also relied on the City's Sexual Harassment Policy which states "[s]exual [h]arassment is defined legally as unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when … the conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment." City's Sexual Harassment Prevention Policy, 7/19/2018, at 3.

After considering the testimony and all the text messages, the arbitrator concluded that there was not a sufficient basis to find that the texts "were unwelcome or rose to the level of creating a sexually hostile work environment." Arbitration Opinion, 7/22/2022, at 16. To the arbitrator, "the texts reflect[ed] some questionable banter in which Hayes, Officer One and Officer Two all appeared willing to engage." *Id*. The arbitrator relied on Officer One's testimony and prior statements that she did not consider the texts to be sexually harassing, but instead an attempt at humor by Hayes. *Id*. at 16-17. The arbitrator highlighted that Officer Two did not testify at arbitration and explained, "[w]ithout the context that her testimony would have provided, I cannot draw any conclusions from her entries in the … text exchange relative to whether she considered Hayes' texts to be sexually offensive or harassing. Her statements during the … investigation represent hearsay." *Id*. at 17 n.12.

As for the video, the arbitrator acknowledged that it was "very disturbing" and had "the potential to offend and create a hostile work environment based upon sex." *Id*. at 17. However, the arbitrator again analyzed whether the video subjectively constituted sexual harassment, explaining

> I cannot simply look to the content of the video itself and the fact that Hayes, a male supervisor, sent it to two female subordinates, Officer One and Officer Two. Instead, I must find that Officer One and/or Officer Two were, in fact, offended by the video, and it had the effect of rendering their work environment sexually hostile.

Id.

The arbitrator noted that Officer One never watched the video and explained that her knowledge of its contents "is limited to the still image that appears at the start of the video before it is played." *Id*. at 17-18. While Officer One testified that she found the video to be "gross," the arbitrator highlighted that she did not consider it to be an attempt by Hayes to sexually harass her. *Id*. at 18. The arbitrator further explained that Officer One did not claim that receiving the video adversely affected her work environment. *Id*. The arbitrator acknowledged that Officer Two texted "please don't send me things like that" after receiving the video. *Id*. at 18 n.13. However, the arbitrator explained this text was inconclusive to determine whether transmission of the video constituted sexual harassment as to Officer Two. *Id*. The arbitrator found that Hayes' sending of the video was highly inappropriate, but it did not rise to the level of sexual harassment in violation of Directive 8.7. *Id*. at 18.

On the remaining three charges, the arbitrator found that Hayes violated each respective section of the Disciplinary Code. *Id*. at 18-21. The arbitrator imposed a fifty-day suspension for the three violations. Finding that the City did not have just cause to

discharge Hayes, the arbitrator ordered the City to reinstate Hayes to his former position with the Department and awarded him backpay. *Id.* at 25.

The City filed a petition to vacate the arbitration award in the Court of Common Pleas of Philadelphia County, arguing first that the arbitrator exceeded his authority by rewriting the terms of the Disciplinary Code, Directive 8.7, and the City's Sexual Harassment Policy by applying a different standard for sexual harassment than the standard collectively bargained for by the parties. City's Petition to Vacate Arbitration Award, 8/22/2022, at 11. Alternatively, the City argued that the trial court should modify the narrow certiorari scope of review for grievance arbitration awards rendered pursuant to Act 111. *Id.* at 13.

The trial court denied the City's petition. The trial court explained that it was bound by the narrow certiorari scope of review when reviewing the arbitration award and therefore could only consider questions regarding "(1) the jurisdiction of the arbitrator; (2) the regularity of the proceedings; (3) an excess of the arbitrator's powers; and (4) a deprivation of constitutional rights." Trial Court Opinion, 3/9/2023, at 2 (quoting *City of Washington v. Police Dep't of Washington*, 259 A.2d 437, 440-41 (Pa. 1969)). The trial court concluded that the arbitrator acted within his authority in altering the discipline imposed on Hayes. *Id*. at 4. Further, the trial court noted that it did not have the authority to modify the narrow certiorari scope of review. *Id*.

The Commonwealth Court affirmed, reiterating the trial court's pronouncement that in Act 111 cases, judicial review is confined to narrow certiorari.[5] *City of Phila. v. Fraternal Ord. of Police, Lodge No. 5*, 307 A.3d 1263, 1267 (Pa. Commw. 2024) (citing *Borough of State Coll. v. Borough of State Coll. Police Ass'n*, 303 A.3d 248, 255-56 (Pa. Commw. 2023)). The City argued that the arbitrator exceeded his authority because he fully

[5] President Judge Cohn Jubelirer dissented without opinion.

reformed the parties' CBA by replacing its objective standard for sexual harassment with a subjective standard based on the specific perspectives of the officers who received the messages. The Commonwealth Court rejected the City's argument, relying on this Court's discussion in *City of Pittsburgh v. Fraternal Order of Police, Fort Pitt Lodge No. 1*, 224 A.3d 702 (Pa. 2020):

> Certainly, an Act 111 grievance arbitrator should not undertake to equitably reform a collective bargaining agreement. Absent an indisputably overt instance of reformation, however, we find the task of distinguishing between such an innovation and errors of law in the interpretation to be unmanageable. *Cf. Smith*, 741 A.2d at 1252-53 (refusing to incorporate review for violations of public policy into narrow certiorari, since such a focus "-- however that nebulous concept may be defined by a particular appellate court -- would greatly expand the scope of review ... undercut[ting] the legislature's intent of preventing protracted litigation in this arena.").

Id. at 1268 (emphasis removed) (quoting *City of Pittsburgh*, 224 A.3d at 714).

Here, the Commonwealth Court explained that, "[a]t most, the arbitrator erred as a matter of law[.]" *Id*. However, it stressed that "[a] mere error of law is insufficient to support a court's decision to reverse an Act 111 arbitrator's award." *Id*. (quoting *Borough of State Coll*., 303 A.3d at 255). The City also argued that the arbitrator acted outside of his authority by ruling on a matter of managerial prerogative. The Commonwealth Court explained that the propriety of Hayes' discharge was submitted to the arbitrator as all matters of discipline are grievable pursuant to the CBA. *Id*. Thus, the Commonwealth Court determined that the arbitrator addressed an issue that was properly before him. *Id*. Lastly, the Commonwealth Court explained that it was not permitted to modify the narrow certiorari scope of review because it was constrained by this Court's holding in *Betancourt*. *Id*. at 1268-69.

The City filed a petition for allowance of appeal which we granted, limited to the following question:

> Where a police lieutenant sent a series of [ ] sexualized texts to two subordinate officers … and then encouraged one of the officers to cover it up, but where the grievance arbitrator reinstated the employee, should this Court modify the narrow certiorari scope of review set forth in *Pa. State Police v. Pa. State Troopers' Ass'n (Betancourt)*, 656 A.2d 83 (Pa. 1995), and instead apply the essence test or judgment n.o.v. test, or at least incorporate a limited public policy exception into the narrow certiorari test?

City of Phila. v. Fraternal Ord. of Police, Lodge No. 5, 326 A.3d 87 (Pa. 2024) (per curiam).[6]

II. Judicial Review under Act 111

Before addressing the arguments of the parties, it is necessary to recount the history of the narrow certiorari scope of review in the context of Act 111 cases and our decisions in *Betancourt* and *Smith*. In our recent decision of *Northern Berks Regional Police Commission v. Berks County Fraternal Order of Police*, *Lodge No. 71*, 230 A.3d 1022 (Pa. 2020), we explained:

> Act 111 was enacted in the wake of *Erie Firefighters Local No. 293 v. Gardner*, 178 A.2d 691 (Pa. 1962) (per curiam), which held that its predecessor was not binding on municipalities on constitutional non-delegation grounds. *Id*. at 695 (citing PA. CONST. art. [III], § 20 (repealed)). That former law "prohibited strikes and attempted to provide for the adjustment of grievances through negotiations" but did not allow for collective bargaining. *Moon Twp. v. Police Officers of Moon Twp.*, 498 A.2d 1305, 1308 (Pa. 1985). "This double denial of rights to police and fire personnel fueled the growing tension

[6] We denied allowance of appeal of the City's second issue concerning whether the arbitrator exceeded his authority under the narrow certiorari scope of review. *See* Petition for Allowance of Appeal, 2/6/2024, at 6; *City of Phila. v. Fraternal Ord. of Police, Lodge No. 5*, 326 A.3d 87 (Pa. 2024) (per curiam). Therefore, we do not analyze the Commonwealth Court's determination that the arbitrator did not exceed his authority in rendering the award.

> between labor and management, tension which culminated in 'illegal strikes and a general breakdown in communication between public employers and their employees.'" [*Smith*], 741 A.2d [at] 1251 … (quoting *Betancourt*, 656 A.2d at 89). Following *Erie Firefighters*, the electorate authorized an amendment to the Pennsylvania Constitution, PA. CONST. art. [III], § 31,[7] which allowed "the adjustment or settlement of grievances or disputes or for collective bargaining between policemen and firemen and their public employers." That amendment cleared the way for new legislation.
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> Act 111 was passed two years later. It continued to withhold the right to strike from police and firefighters but conferred "the right to bargain collectively with their public employers concerning the terms and conditions of their employment[.]" 43 P.S. § 217.1.[8] This process, deemed interest arbitration,

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[7] Article III, Section 31 provides:

> The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.
>
> Notwithstanding the foregoing limitation or any other provision of the Constitution, the General Assembly may enact laws which provide that the findings of panels or commissions, selected and acting in accordance with law for the adjustment or settlement of grievances or disputes or for collective bargaining between policemen and firemen and their public employers shall be binding upon all parties and shall constitute a mandate to the head of the political subdivision which is the employer, or to the appropriate officer of the Commonwealth if the Commonwealth is the employer, with respect to matters which can be remedied by administrative action, and to the lawmaking body of such political subdivision or of the Commonwealth, with respect to matters which require legislative action, to take the action necessary to carry out such findings.

PA. CONST. art. III, § 31.

[8] Section 1 of Act 111 provides:

> Policemen or firemen employed by a political subdivision of the Commonwealth or by the Commonwealth shall, through

(continued…)

> is "in essence, the process by which the parties, through a neutral arbitrator or panel, create a collective bargaining agreement." *Michael G. Lutz Lodge No. 5, of F[raternal Ord. of Police] v. City of Phila[.]*, 129 A.3d 1221, 1226 (Pa. 2015). Interest arbitration is distinct from grievance arbitration, which involves the disputes over how the governing bargaining agreement should be interpreted and/or applied. …
>
> Grievance arbitration is not specifically mentioned in Act 111 as its language speaks only to the resolution of disputes arising from "the collective bargaining process," i.e. interest arbitration, which must be settled before a board of arbitration composed of three persons. 43 P.S. § 217.4(b). However, Section 1 of Act 111 states that police and firefighters "shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this act," 43 P.S. § 217.1, and in *Chirico v. B[oar]d. of Sup[ervisor]s for Newton T[ownship]*, 470 A.2d 470, 474-75 (Pa. 1983), we held that the General Assembly intended for Act 111 and the concomitant body of case law regarding the appellate scope of review to apply to grievance disputes. Therefore, an arbitrator's decision in an Act 111 case, whether grievance or interest, "shall be final on the issue or issues in dispute and shall be binding upon the public employer ... No appeal therefrom shall be allowed to any court." 43 P.S. § 217.7(a).[9]

> labor organizations or other representatives designated by fifty percent or more of such policemen or firemen, have the right to bargain collectively with their public employers concerning the terms and conditions of their employment, including compensation, hours, working conditions, retirement, pensions and other benefits, and shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this act.

43 P.S. § 217.1.

9 Section 7(a) of Act 111 provides:

> (a) The determination of the majority of the board of arbitration thus established shall be final on the issue or issues in dispute and shall be binding upon the public employer and the policemen or firemen involved. Such determination shall be in writing and a copy thereof shall be forwarded to both parties to the dispute. **No appeal therefrom shall be allowed to**

(continued…)

N. Berks, 230 A.3d at 1032-33.

Although Act 111 does not allow for appeals of arbitration awards, this Court in *City of Washington* "adopted the narrow certiorari mechanism for a combination of pragmatic, historical, and constitutional reasons." *N. Berks*, 230 A.3d at 1033. There, after the City of Washington could not reach an agreement with its police officers, the parties went to arbitration where a three-member panel issued an interest arbitration award. The City of Washington subsequently filed an appeal in the court of common pleas, challenging a portion of the award which ordered it to provide "at its sole expense, hospitalization coverage for the members of the family of each member of the Police Department of the City of Washington, equal to the coverage now provided … for the member himself." *City of Washington*, 259 A.2d at 439 (quoting arbitration award). The City of Washington claimed that it was illegal to make such payments to family members of police officers. After the trial court concluded that the City of Washington had no right to appeal under Act 111, the City petitioned for allowance to appeal to this Court.

The *City of Washington* Court first rejected the City's claim that it had a constitutional right to appeal an interest arbitration award to the court of common pleas. *Id*. The Court observed that Act 111 "clearly provides that 'the determination of the majority of the board of arbitration thus established shall be final on the issue or issues in dispute and shall be binding upon the public employer and the policemen or firemen

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> **any court**. Such determination shall constitute a mandate to the head of the political subdivision which is the employer, or to the appropriate officer of the Commonwealth if the Commonwealth is the employer, with respect to matters which can be remedied by administrative action, and to the lawmaking body of such political subdivision or of the Commonwealth with respect to matters which require legislative action, to take the action necessary to carry out the determination of the board of arbitration.

43 P.S. § 217.7(a) (emphasis added).

involved. … No appeal therefrom shall be allowed to any court." *Id.* (quoting 43 P.S. § 217.7(a)). Given that an arbitration panel "is neither a court nor an administrative agency[,]" the Court determined that Act 111's prohibition on appeals of arbitration awards did not conflict with Article V, Section 9 of the Pennsylvania Constitution, which only provides a right of appeal from cases arising from a court or administrative agency.[10]

Nonetheless, the *City of Washington* Court examined the appeal pursuant to then-existing Supreme Court Rule 68 ½, explaining that

> If an appeal is prohibited by an Act, or the decision of the Agency is stated to be final or conclusive, the law is well settled that an appeal will lie to the Courts in the nature of a narrow certiorari and this Court will review only (1) the question of jurisdiction; (2) the regularity of the proceedings before the Agency; (3) questions of excess in exercise of powers; and (4) constitutional questions: *Cf. Devito v. Civil Service Commission*, 172 A.2d 161 [(Pa. 1961)] (and cases cited therein); *Dauphin Deposit Trust Company v. Myers*, 164 A.2d 86 [(Pa. 1960)].

City of Washington, 259 A.2d at 441 (quoting *Keystone Raceway Corp. v. State Harness Racing Comm'n*, 173 A.2d 97, 99 (Pa. 1961)). Given that "[n]o adjudicatory body has unlimited discretion" and that "each and every adjudicator is bound by the Constitution[,]" the *City of Washington* Court reasoned that applying the narrow certiorari scope of review would ensure "the protection of constitutional rights." *Id.* at 440-41.

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[10] Article V, Section 9 provides:

> There shall be a right of appeal in all cases to a court of record from a court not of record; and there shall also be a right of appeal from a court of record or from an administrative agency to a court of record or to an appellate court, the selection of such court to be as provided by law; and there shall be such other rights of appeal as may be provided by law.

PA. CONST. art. V, § 9. It is questionable whether the *City of Washington* Court's finding that a decision of an Act 111 arbitration panel is not a decision of an administrative agency remains true in light of subsequently enacted statutes. *See* 42 Pa.C.S. § 763(b); 42 Pa.C.S. § 933(b).

Analyzing the third prong of the narrow certiorari scope of review, the Court concluded that the arbitration panel exceeded the scope of its authority in ordering the city to carry out an illegal act, noting that the city was forbidden by statute from paying hospitalization premiums for non-city employees. *Id.* at 443. Notably, the *City of Washington* Court did not draw a distinction between interest arbitrations and grievance arbitrations in finding that the narrow certiorari scope of review applied to review of arbitration awards rendered pursuant to Act 111.[11]

In *Chirico v. Board of Supervisors for Newton Township*, 470 A.2d 470 (Pa. 1983), the Court addressed, inter alia, whether a court of common pleas had jurisdiction to resolve a grievance between Newton Township and its police officers, stemming from the interpretation of the parties' collective bargaining agreement. After an impasse in collective bargaining negotiations, a board of arbitrators entered an award setting forth

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[11] In 1970—two years following the passage of Act 111—the General Assembly enacted the Public Employe Relations Act of July 23, 1970, P.L. 563, *as amended*, 43 P.S. §§ 1101.101-1101.2301 ("PERA"). PERA outlines more detailed procedures and requirements for the representation of public employees, the scope of collective bargaining between representatives of public employees and public employers, and provides that "[a]rbitration of disputes or grievances arising out of the interpretation of the provisions of a collective bargaining agreement is mandatory." 43 P.S. § 1101.903. Section 903 of PERA further provides that "[t]he procedure [for arbitration] to be adopted is a proper subject of bargaining with the proviso that the final step shall provide for a binding decision by an arbitrator or a tri-partite board of arbitrators as the parties may agree." *Id*. In 1977, this Court held that the proper scope of review of grievance arbitration awards rendered pursuant to PERA is the essence test, which provides that "[t]he arbitrator's award must be 'respected by the judiciary if the interpretation can in any rational way be derived from the agreement, viewed in light of its language, its context, and any other indicia of the parties' intention[.]'" *Westmoreland Intermediate Unit No. 7 v. Westmoreland Intermediate Unit No. 7 Classroom Assistants Educ. Support Pers. Ass'n*, 939 A.2d 855, 862 (Pa. 2007) (quoting *Cmty. Coll. of Beaver Cnty. v. Cmty. Coll. of Beaver Cnty., Soc. of the Fac.*, 375 A.2d 1267, 1275 (Pa. 1977)). However, PERA is clear that it does not apply to employees covered by Act 111. *See* 43 P.S. § 1101.301(2) ("'Public employe' or 'employe' … shall not include … those employees covered under the act of June 24, 1968 (Act No. 111)[.]"). This Court has explained that PERA "has no application to proceedings initiated under Act 111." *Geriot v. Council of Darby*, 417 A.2d 1144, 1147 (Pa. 1980).

the terms and conditions of employment for police officers for the 1975 calendar year. *Chirico*, 470 A.2d at 471. When the Township refused to implement certain aspects of the award, the Police Department filed a complaint in mandamus in the court of common pleas. *Id.* at 472. During the pendency of that mandamus action, another board of arbitrators entered an award for the 1976 calendar year. Neither the Township nor the Police Department filed an appeal from either award. Relevant here, the 1975 award provided that police officers were entitled to one to five weeks of vacation, but the award did not define the term "week." As a result, the parties disputed whether a "vacation week" was five or six days. In deciding the Police Department's mandamus action, the trial court interpreted the phrase "vacation week" but refused to enforce other ambiguous provisions of the awards to the extent the directives were illegal. On appeal, the Commonwealth Court concluded that the trial court did not have jurisdiction to interpret the phrase in the award as this was exclusively for the arbitration panel.

On appeal, this Court affirmed, explaining that "[a] dispute over the interpretation of a provision in an existing award falls within the ambit of grievance arbitration." *Id.* at 474 (citing *Geriot*, 417 A.2d at 1144 (holding that a police department could seek mandamus against its municipality to enforce a wage provision in the CBA)). The *Chirico* Court continued:

> Grievance disputes are properly handled within the framework of [S]ection 1 of Act 111, which provides that "[Employees] shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this act." [43 P.S. § 217.1]. Act 111 does not set forth the specific mechanism by which grievance, as compared with interest, disputes are to be arbitrated. We acknowledge it is clearly inadequate to recognize a right "to a settlement of grievances or disputes[,]" while failing to provide any method for the implementation of those rights. This obvious vacuum must not be countenanced. Yet resort to the courts to meet this need would contravene the strong affirmance of the use of non-adversarial methods for the resolution of disputes

> between governmental employers and police and firemen embodied in [S]ection two of the Act.
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> First, Act 111 specifically avoids the use of the courts for dispute resolution. This policy is so strong that [S]ection seven of the Act, 43 P.S. [§] 217.7, provides for binding arbitration and contains the unique provision that "[n]o appeal therefrom shall be allowed to any court." Thus the only method for settling grievance disputes allowable within the framework of Act 111 is arbitration. This objective would be completely frustrated if we were to superimpose, by judicial fiat, a layer of court intervention.

Id. at 474–75. The Court also highlighted that labor arbitrators, given their particular expertise in labor law, are best suited to resolve disputes as to the meaning of an award. *Id.* at 475.

Two years later, in *Moon Township v. Police Officers of Moon Township*, 498 A.2d 1305 (Pa. 1985), the Court addressed whether an Act 111 interest arbitration panel may include in its award a procedure for binding grievance arbitration and, subsumed within that question, it addressed whether Act 111 requires that grievance arbitration procedures conform with the arbitration procedures set forth in Section 4 of Act 111.[12] After Moon

[12] Section 4 provides:

> (a) If in any case of a dispute between a public employer and its policemen or firemen employes the collective bargaining process reaches an impasse and stalemate, or if the appropriate lawmaking body does not approve the agreement reached by collective bargaining, with the result that said employers and employes are unable to effect a settlement, then either party to the dispute, after written notice to the other party containing specifications of the issue or issues in dispute, may request the appointment of a board of arbitration.
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> For purposes of this [S]ection, an impasse or stalemate shall be deemed to occur in the collective bargaining process if the parties do not reach a settlement of the issue or issues in dispute by way of a written agreement within thirty days after collective bargaining proceedings have been initiated.

(continued…)

Township and its police officers reached an impasse in their collective bargaining negotiations, the parties proceeded to arbitration pursuant to Act 111. Relevant here, the

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> In the case of disputes involving political subdivisions of the Commonwealth, the agreement shall be deemed not approved within the meaning of this [S]ection if it is not approved by the appropriate lawmaking body within one month after the agreement is reached by way of collective bargaining.
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> In the case of disputes involving the Commonwealth, the agreement shall be deemed not approved within the meaning of this [S]ection if it is not approved by the Legislature within six months after the agreement is reached by way of collective bargaining.
>
> (b) The board of arbitration shall be composed of three persons, one appointed by the public employer, one appointed by the body of policemen or firemen involved, and a third member to be agreed upon by the public employer and such policemen or firemen. The members of the board representing the public employer and the policemen or firemen shall be named within five days from the date of the request for the appointment of such board. If, after a period of ten days from the date of the appointment of the two arbitrators appointed by the public employer and by the policemen or firemen, the third arbitrator has not been selected by them, then either arbitrator may request the American Arbitration Association, or its successor in function, to furnish a list of three members of said association who are residents of Pennsylvania from which the third arbitrator shall be selected. The arbitrator appointed by the public employer shall eliminate one name from the list within five days after publication of the list, following which the arbitrator appointed by the policemen or firemen shall eliminate one name from the list within five days thereafter. The individual whose name remains on the list shall be the third arbitrator and shall act as chairman of the board of arbitration. The board of arbitration thus established shall commence the arbitration proceedings within ten days after the third arbitrator is selected and shall make its determination within thirty days after the appointment of the third arbitrator.

43 P.S. § 217.4.

interest arbitration panel issued an award which included a contractual grievance procedure that required binding arbitration of grievances between Moon Township and its police officers. *Moon Twp*., 498 A.2d at 1306 n.2. Notably, the grievance procedure set forth in the award differed from the procedure set forth in Section 4 of Act 111. *Id.* The award provided, in pertinent part, that "the issue may be submitted to arbitration in accordance with the rules and regulations, then prevailing, of the American Arbitration Association except as may be limited or expanded by the Uniform Arbitration Act,[13] [("UAA")] of the Commonwealth[,]" and that "[a]ny arbitration award shall, to the extent permitted by law, be final, binding, and not subject to review except as provided for in the said [UAA]." *Id.*

Moon Township appealed to the court of common pleas, seeking, inter alia, to vacate the grievance procedure. Specifically, Moon Township argued that the interest arbitration panel was without constitutional or statutory authority to impose a binding grievance arbitration procedure on the parties because Act 111 is limited to interest arbitrations and does not permit grievance arbitrations at all. *Id.* at 1308. The trial court disagreed, reasoning that the interest arbitration panel had the authority to establish a binding grievance arbitration procedure. Nonetheless, the trial court remanded the matter to the interest arbitration panel because the grievance arbitration procedure set forth in the award did not comply with the procedure described in Act 111. Moon Township then appealed to the Commonwealth Court, which affirmed the trial court; however, instead of remanding the matter to the arbitration panel, the Commonwealth Court modified the grievance arbitration procedure so that it mirrored the procedures set forth in Act 111.

This Court modified the Commonwealth Court's order, permitting the grievance arbitration procedures referencing the UAA in the interest arbitration award to stand as

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[13] 42 Pa.C.S. §§ 7301–7320.

is. *Id.* at 1313. The Court began its analysis by discussing the legislative history and purpose of Act 111, describing that the Act sought to harmonize the employment relationships with police and fire personnel by granting them the right to collectively bargain. *Id.* at 1309. Given this legislative intent, the Court reasoned that "it is difficult to accept [Moon Township's] underlying premise that the legislature intended to exclude grievance arbitration as a method for the resolution of disputes as to meaning, interpretation and implication of the terms of the collective bargaining agreement." *Id.* The Court also referenced the 1967 amendment to Article III, § 31 of the Pennsylvania Constitution, *see* supra note 7, explaining that it provides the constitutional predicate for binding resolution of grievances or disputes as well as for collective bargaining. *Id.* at 1310. The Court also observed that although Act 111 only provides a mechanism for interest arbitrations, if the Act were not interpreted to also cover grievance arbitrations, it "would render meaningless Section 1's assurance that the resolution of grievances and disputes comprised part of the subject matter to be addressed in the Act." *Id.* Therefore, the Court concluded that the interest arbitration panel "could properly include in its award a mechanism for binding arbitration of grievances and disputes arising under the terms of the collective bargaining provisions set forth under its award." *Id.* at 1311-12.

The Court next analyzed whether the panel exceeded its authority in establishing a binding arbitration procedure pursuant to the Uniform Arbitration Act. On this issue, the Court explained:

> Although we have found that Act 111 expresses a clear intention to provide for grievance and dispute resolution by way of binding arbitration, there is no clear intent that can be derived from the language of the Act to suggest that the procedure set forth in [S]ection 4 must be followed. In fact the procedure described in [S]ection 4 sets forth time limits that are clearly related to a contract negotiation impasse and not to an alleged grievance. Moreover, there is nothing unique about a tripartite arbitration panel that would make it more

> suitable for grievance arbitration than the other forms of binding arbitration that have been approved by the legislature. … Unquestionably, the parties could have voluntarily agreed to a grievance procedure in accordance with the Uniform Arbitration Act[.] … Therefore, we can find no reason for holding that an arbitration panel should not have the same latitude in this area.

Id. at 1312 (internal citations omitted).

This lengthy history of Act 111 jurisprudence brings us to *Betancourt*, which was decided in 1995 and involved the consolidated cases of three state troopers who were initially suspended or discharged for unrelated, wrongful conduct. The troopers each filed grievances and proceeded with grievance arbitrations where the separate arbitrators either ordered the reinstatement of the trooper at issue or imposed a lesser punishment.[14] *Betancourt*, 656 A.2d at 85-87. The State Police then appealed the arbitration awards directly to the Commonwealth Court pursuant to 42 Pa.C.S. § 763(b). The Commonwealth Court found that "the source of the authorization for police and fire grievance arbitration is the [UAA]," not Act 111, and therefore reasoned that the proper scope of review is set forth in 42 Pa.C.S. § 7302(d) of the UAA.[15] *Pa. State Police v. Pa.*

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[14] Trooper James Betancourt was charged with unbecoming conduct for exposing his penis to other troopers while on duty. Trooper Betancourt initially received a thirty-day suspension without pay but a grievance arbitrator later determined that his conduct did not rise to the level of unbecoming conduct as defined by the parties' CBA.

Trooper Scott Gibson was discharged for wrongful conduct after failing to pay his debts, issuing bad checks, and failing to file reports properly. A grievance arbitrator subsequently found that Gibson's conduct did not rise to the level of extremely egregious behavior and ordered the reinstatement of Gibson.

Trooper Joseph DiRaimo was discharged for wrongful conduct after using a Commonwealth credit card to pay for five dollars' worth of gasoline for his wife's personal vehicle. Trooper DiRaimo pled guilty to a summary offense and was dismissed. Subsequently, Trooper DiRaimo requested a grievance arbitration where the arbitrator concluded that the conduct did not warrant his firing and reduced the discipline to a fifteen-day suspension.

[15] Section 7302(d)(2) of the UAA provides:

(continued…)

State Troopers' Ass'n (Betancourt), 633 A.2d 1278, 1287 (1993), *rev'd*, 656 A.2d 83 (Pa. 1995).

This Court subsequently granted allowance of appeal in *Betancourt* to determine the proper scope of review for grievance arbitration awards under Act 111. Initially, the Court noted that while *City of Washington* adopted the narrow certiorari scope of review in a case involving an Act 111 interest arbitration award, the Court there "did not circumscribe [its] holding … so that it would apply only to interest arbitration awards." *Betancourt*, 656 A.2d at 85 n.3. The Court then explained that it was Act 111, not the UAA, which specifically authorized grievance arbitrations, pointing to our decision in *Chirico* where we determined that "[g]rievance disputes are properly handled within the framework of [S]ection 1 of Act 111, which provides that '[Employees] shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this act.'" *Chirico*, 470 A.2d at 474. The *Betancourt* Court rejected the Commonwealth Court's reasoning that this Court's decisions in *Chirico* and *Moon*, "established the UAA as the progenitor of Act 111 grievance arbitration." *Betancourt*, 656 A.2d at 87. According to the *Betancourt* Court, "[n]either [*Chirico* nor *Moon*] provide[d] justification for the [Commonwealth] Court's views." *Id*.

The *Betancourt* Court explained that in *Moon*, the Court focused on whether it was permissible for an Act 111 grievance arbitration panel to decline to follow "some of the procedures set forth for interest arbitration in Section 4 of Act 111, and instead follow

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> (2) Where this paragraph is applicable a court in reviewing an arbitration award pursuant to this subchapter shall, notwithstanding any other provision of this subchapter, modify or correct the award where the award is contrary to law and is such that had it been a verdict of a jury the court would have entered a different judgment or a judgment notwithstanding the verdict.

42 Pa.C.S. § 7302(d)(2).

some of the procedures set forth in the UAA." *Betancourt*, 656 A.2d at 87. The *Betancourt* Court explained that the *Moon* Court "determined that a grievance arbitration panel need not conform in all particulars to the procedures set forth in Section 4 [of Act 111]." *Id.* While the *Moon* Court permitted parties to utilize certain UAA procedures for grievance arbitrations, the *Betancourt* Court stressed that *Moon* "did not, however, make any statements which could be construed as giving support for the proposition that it was the UAA, and not Act 111, that gave authority for grievance arbitration under Act 111." *Id*. at 88. The *Betancourt* Court also highlighted that although *Moon* permitted the grievance procedures to differ from the procedures set forth in Section 4 of Act 111, *Moon* did not discuss the proper scope of review for grievance arbitration awards. *Id.* at 88 n.11 ("Section 4 [of Act 111] concerns the procedures to be employed; it does not, however, touch upon judicial review of arbitration awards."). Therefore, the *Betancourt* Court clarified that *Moon* "should not be read as condoning the UAA's essence test as the scope of review for Act 111 grievance arbitration awards." *Id.*

The *Betancourt* Court next addressed the State Police's argument that because Act 111 does not specifically provide for grievance arbitration procedures, the scope of review set forth in the UAA should apply. *Id.* at 88. The Court rejected the State Police's argument, explaining that "Act 111 is not devoid of direction on this issue[,]" and referenced Section 1 of Act 111 which provides that "policemen or firemen … shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this act." *Id.* (quoting 43 P.S. § 217.1). Based on Section 1 of Act 111, the Court concluded that "[t]he legislature … expressed the unqualified intent that issues relating to grievance resolution be covered under Act 111." *Id.* However, the Court also acknowledged that "[a]rguably, this intent is obscured by the legislature's failure to provide as detailed a mechanism for grievance arbitration as it did for interest arbitration." *Id*.

Given the lack of clear direction in Act 111, the Court looked to the history of Act 111 to ascertain whether the General Assembly intended for a different scope of review for grievance arbitration awards compared to interest arbitration awards.

The *Betancourt* Court observed that prior to Act 111, police officers and firefighters were prohibited from going on strike and had no collective bargaining rights. *Id.* (citing Act of June 30, 1947, P.L. 1183, 43 P.S. § 215.1). The Court noted that "[b]y the later 1960s, the failure of labor relations law to protect the rights of public employees had led to illegal strikes and a general breakdown in communication between public employers and their employees" causing the General Assembly to "enact sweeping reforms of public labor relations law." *Id*. at 89. According to the Court, "Act 111 was created to strike a more perfect balance between the need of the Commonwealth to insure public safety and the rights of the worker. To protect the need of the Commonwealth, police and fire personnel were still denied the right to strike." *Id*. The Court emphasized that the "restraint on judicial activism [wa]s the linchpin of the Act[.]" *Id*. (citing *City of Washington*, 259 A.2d at 443). Thus, the Court concluded that there was nothing in Act 111 nor its history showing that the General Assembly intended for "grievance arbitration awards to be subject to greater judicial involvement than interest arbitration awards." *Id.* The Court declined to "allow a scope of review which is markedly boarder than narrow certiorari for Act 111 grievance arbitration." *Id.* The Court also reiterated that the UAA's essence test is inconsistent with the narrow certiorari scope of review such that the UAA cannot apply. *Id.* at 89 n.17 (citing *Appeal of Upper Providence Police Delaware Cnty. Lodge No. 27 Fraternal Ord. of Police*, 526 A.2d 315, 320 (Pa. 1987) (upholding the narrow certiorari scope of review for Act 111 arbitration awards and reasoning that "[t]he legislature did not intend that the comprehensive scheme and procedures created for arbitration under Act

111 be somehow modified implicitly by the scope of review provided under [S]ection 7302(d) of the UAA or by any of the other inconsistent provisions")).

Four years following *Betancourt*, this Court in *Smith* analyzed whether there should be a limited public policy exception to the narrow certiorari scope of review. *Smith* involved the consolidated cases of two state troopers who were each disciplined for separate, wrongful conduct.[16] On appeal, the *Smith* Court first reiterated *Betancourt*'s holding that narrow certiorari is the proper scope of review for grievance arbitration awards and that the "severe limits placed on our appellate authority were not self-imposed" but instead "dictated by the legislature[.]" *Smith*, 741 A.2d at 1251. Applying the narrow certiorari scope of review, the Court first held that the arbitrators did not exceed their powers in ordering the reinstatement of the troopers because the reinstatement "did not mandate that the State Police perform an illegal act" and because the reinstatement "clearly related to the terms and conditions of employment." *Id.* at 1252.

The Court next addressed the State Police's argument that an arbitrator could "exceed his or her powers … by issuing an order which contravenes public policy." *Id*. (internal quotations omitted). We unequivocally rejected this argument, explaining that "allow[ing] the courts to interfere with an arbitrator's award whenever that award could be deemed to be violative of 'public policy'—however that nebulous concept may be defined by a particular appellate court—would greatly expand the scope of review in these

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[16] Trooper Rodney Smith, after drinking at a bar while off duty, got into an argument with his ex-girlfriend and jammed his police-issued weapon into her mouth, threatening to kill her. Trooper Smith pled guilty to five criminal charges stemming from the incident and was dismissed from the force. After filing a grievance, an arbitrator determined that Smith's dismissal was excessive and ordered his reinstatement.

Trooper Robert Johnson was charged with retail theft after stealing $27.58 in merchandise from a department store. After being notified of his dismissal from the force, Johnson filed a grievance. The arbitrator concluded that the State Police did not have just cause to dismiss Trooper Johnson.

matters." *Id.* The Court further explained that adopting such an exception "would undercut the legislature's intent of preventing protracted litigation in this arena." *Id.* at 1253.

Then-Justice Castille authored a concurring opinion, suggesting that the narrow certiorari scope of review "be expanded in grievance arbitration cases to include review of arbitrators' powers where it appears that an arbitrator's decision is manifestly, unreasonable, arbitrary and capricious." *Id*. at 1253 (Castille, J., concurring). Justice Nigro also concurred, proposing that, based on Trooper Smith's egregious conduct, the Court expand the narrow certiorari scope of review to examine "whether the arbitration decision is repugnant to public policy or shocks the conscience of the court." *Id.* at 1254 (Nigro, J., concurring). Lastly, Justice Newman dissented, finding that the arbitrators exceeded the limits of their powers by reinstating troopers who were "guilty of serious crimes." *Id.* at 1255 (Newman, J., dissenting). Justice Newman reasoned that because police are "responsible for enforcing the laws of this Commonwealth and protecting the safety of the citizens of this Commonwealth, the public policy of binding arbitration must cede to the public policy of insuring that the employees who are bound to carry out these duties are of the highest integrity and character." *Id.*

III. Parties' Arguments

City's Arguments

The City provides two main reasons why the Court should overrule *Betancourt*. First, it argues that the *Betancourt* Court erred in holding that narrow certiorari applies to grievance arbitrations because the text of Act 111 is silent on judicial review of grievance arbitrations. City's Brief at 28. The City highlights that it was not initially clear that Act 111 permitted grievance arbitrations because the Act does not provide a specific provision pertaining to such arbitrations. *Id*. at 30. Although Act 111 states that "[n]o appeal [from

an arbitration award] shall be allowed to any court[,]" *id.* (citing 43 P.S. § 217.7(a)), the City maintains that this "clearly applies to interest arbitration only" because "[i]t is preceded and followed by sections describing the interest arbitration panel's powers" and "specifically refers to the 'determination of the majority of the board of arbitration[.]'" *Id.* at 30-31 (quoting 43 P.S. § 217.7(a)). The City observes that courts only employ the narrow certiorari scope of review "as a backdrop where a statute has made clear that it is precluding review[.]" *Id.* at 31 (citing *Dauphin Deposit v. Myers*, 130 A.2d 686 (Pa. 1957)). However, here, because in the City's view Act 111 does not prohibit the appeals of grievance arbitrations, narrow certiorari should not apply.

Second, the City contends that *Betancourt* misunderstood the history and policy rationale of Act 111. *Id*. at 32. Specifically, the City attacks *Betancourt*'s conclusion that the "swift resolution of [grievance arbitration] disputes [would] decrease[] the chance that the workforce would be destabilized by protracted litigation." *Id*. at 33 (quoting *Betancourt*, 656 A.2d at 89). The City contends that this was not a concern of the General Assembly in passing Act 111, but to the extent it was, the concern was aimed at interest arbitrations which affect the entire workforce. *Id*. at 33-34 (citing *Pa. State Police v. Pa. Lab. Rels. Bd.*, 810 A.2d 1240, 1247 n.6 (Pa. 2002) (Saylor, J., dissenting) ("Good reason exists to differentiate legislative purposes related to impasses and grievances, since bargaining impasses implicate a far more immediate and direct potential for destabilization in the workforce (the seminal concern of Act 111) than does the resolution of individual grievances.")).

The City believes that the narrow certiorari scope of review is harmful as it has led to the wrongful reinstatement of police officers who have betrayed the public trust, "taint[ing] the entire investigative process" and "failing to protect the public against the most powerful employees." City's Brief at 36. According to the City, "[a] minimally altered

scope of review would restore at least some discretion to the [Police] Commissioner, who directly understands how derelict officers impact the police mission." *Id*. at 41.

Instead of the narrow certiorari scope of review, the City asks the Court to adopt the J.N.O.V. scope of review set forth at 42 Pa.C.S. § 7302(d)(2) of the UAA, or the essence test, which is the scope of review applied to grievance arbitrations under PERA. City's Brief at 43. The City explains that the J.N.O.V. scope of review is specifically employed for grievance arbitration awards arising out of a public CBA. In such matters, 42 Pa.C.S. § 7302(d)(2) provides that

> a court in reviewing an arbitration award pursuant to this subchapter shall … modify or correct the award where the award is contrary to law and is such that had it been a verdict of a jury the court would have entered a different judgment or a judgment notwithstanding the verdict.

42 Pa.C.S. § 7302(d)(2). Pursuant to this scope of review, a court should enter judgment notwithstanding the verdict when "no two reasonable minds could disagree that the outcome should have been rendered in favor of the movant." City's Brief at 43 (quoting *Lockwood v. Pittsburgh*, 751 A.2d 1136, 1138 (Pa. 2000)).

The City alternatively advocates for the essence test, which "considers whether the issue is within the CBA's terms and, if so, whether the award 'can rationally be derived from the' CBA." *Id*. (quoting *State Sys. of Higher Educ. (Cheyney Univ.) v. State Coll. Univ. Pro. Ass'n*, 743 A.2d 405, 413 (Pa. 1999)). The City notes that the essence test is applicable to arbitrations arising under PERA, which, similarly to Act 111, provides that arbitration awards under the Act are final and binding. *Id.* at 44 (citing 43 P.S. § 1101.903).

If the Court declines to replace the narrow certiorari scope of review with either the J.N.O.V. scope of review or the essence test, the City seeks a narrow public policy exception to the narrow certiorari scope of review. *Id.* at 49. Although it acknowledges

that the Court declined to add such an exception in *Smith*, the City explains that three Justices would have adopted a public policy exception in that case. *Id.* at 49-50 (citing *Smith*, 741 A.2d at 1253 (Castille, J., concurring); *id*. at 1254 (Nigro, J., concurring); *id.* at 1255 (Newman, J., dissenting)). The City also notes that this Court has relied on public policy exceptions in other scenarios. *Id.* at 50 (citing *Minnesota Fire & Cas. Co. v. Greenfield*, 855 A.2d 854, 869 (Pa. 2004) (OAJC) (finding that based on public policy, an "[i]nsurance [c]ompany is not required to defend or indemnify against damages arising out of its insured's criminal acts where the voluntary participation of the victim in an illegal heroin-transaction caused her death"); *Dinardo v. Kohler*, 304 A.3d 1187, 1205 (Pa. 2023) (rejecting the no-felony-conviction-recovery rule as it conflicts with public policy); *Socko v. Mid-Atl. Sys. of CPA, Inc.*, 126 A.3d 1266, 1273 (Pa. 2015) (explaining that the at-will employment doctrine is subject to "judicially-created notions of public policy"); *Waychoff v. Waychoff*, 163 A. 670, 672 (Pa. 1932) (refusing to enforce a contract that is against public policy); *McCormick v. Hanover Twp.*, 92 A. 195, 197 (Pa. 1914) (same)).

The City also highlights that in PERA cases, the Court has adopted a limited public policy exception aimed at "finding a balance between 'the sometimes competing goals of dispute resolution by final and binding arbitration and protection of the public weal.'" *Id*. at 52 (quoting *Westmoreland*, 939 A.2d at 865-66). The limited public policy exception in PERA cases consists of the following three-part test:

> First, a reviewing court must identify precisely what remedy the arbitrator imposed. Next, the court must inquire into whether that remedy implicates a public policy that is well-defined, dominant, and ascertained by reference to the laws and legal precedents and not from general considerations of supposed public interests. Finally, the reviewing court must determine if the arbitrator's award compels the employer to violate the implicated policy, given the particular circumstances and the factual findings of the arbitrator.

Id. (quoting *Millcreek Twp. Sch. Dist. v. Millcreek Twp. Educ. Support Pers. Ass'n*, 210 A.3d 993, 1011 (Pa. 2019)). Based on this Court's adoption of a limited public policy exception in PERA cases, the City rejects the *Smith* Court's contention that such an exception would be unworkable in the Act 111 context. *Id*. at 51.

FOP's Arguments

The FOP argues that the history, purpose, and text of Act 111 support the narrow certiorari scope of review for grievance arbitration awards as interpreted by this Court in *City of Washington* and *Betancourt*. FOP's Brief at 21-25. The FOP relies on the doctrine of stare decisis and our specific pronouncement that "[i]n cases resolved upon statutory interpretation, stare decisis does implicate greater sanctity because the legislature can prospectively amend the statute if it disagrees with a court's interpretation." *Id*. at 28 (quoting *Commonwealth v. Doughty*, 126 A.3d 951, 955 (Pa. 2015)). Here, because the General Assembly has not amended Act 111 since *Betancourt*, the FOP maintains that *Betancourt* correctly interpreted Act 111. *Id*. Moreover, because the narrow certiorari scope of review has been "repeatedly applied and essentially unchanged" since *Betancourt*, the FOP claims that stare decisis further compels the rejection of the City's arguments in this case. *Id*. at 29.

The FOP also contends that the *Betancourt* Court correctly recognized that Act 111 plainly declares that "policemen and firemen … shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this act.'" *Id.* at 30 (quoting *Betancourt*, 656 A.2d at 88 (quoting 43 P.S. § 217.1)). Although *Betancourt* noted that Act 111 did not provide "as detailed a mechanism for grievance arbitration as it did for interest arbitration," the FOP explains that the Court based its decision on the purpose and text of Act 111 which was to prevent arbitration awards "from miring down in litigation." *Id.* at 32 (quoting *Betancourt*, 656 A.2d at 89).

Next, the FOP rejects the City's argument that the Court should apply the J.N.O.V. scope of review set forth in the UAA because, in the FOP's view, the UAA does not apply to Act 111 arbitration awards. *Id.* at 33. Specifically, the FOP relies on our precedent holding that the enactment of the UAA did not necessitate a lower scope of review for Act 111 arbitrations. *Id*. at 33-34 (citing *Appeal of Upper Providence*, 526 A.2d at 316). The FOP notes that *Betancourt* similarly rejected the argument that the J.N.O.V. standard applied to Act 111 because it would conflict with the text of Act 111. *Id.* at 35 (citing *Betancourt*, 656 A.2d at 88-89).

In addition, the FOP rejects the City's reliance on PERA's essence test because, in the FOP's view, PERA is inapplicable to Act 111 arbitration awards. *Id*. at 36. Although PERA generally covers "any individual employed by a public employer," it specifically excepts employees covered by Act 111. 43 P.S. § 1101.301(2). The FOP further distinguishes PERA from Act 111 by noting that PERA has no statutory provision barring appeals of labor arbitration awards.

Lastly, the FOP rejects the City's attempt to create a limited public policy exception to the narrow certiorari scope of review given our decision in *Smith* which specifically rejected such an exception. FOP's Brief at 39-40 (citing *Smith*, 741 A.2d at 1250-51). Based on the "severe limits" the General Assembly placed on appellate review of arbitration awards under Act 111, the FOP explains that the Court reasoned that a public policy exception "would undercut the legislature's intent of preventing protracted litigation in this arena." *Smith*, 741 A.2d at 1252.

City's Reply

In its reply, the City responds to the FOP's invocation of stare decisis, claiming that because "*Betancourt* is both clearly wrong and egregiously unworkable, it is not binding." City's Reply Brief at 9 (citing *Payne v. Tennessee*, 501 U.S. 808, 827 (1991)). The City

also addresses the additional factors we examine when deciding whether to overturn precedent, "including the quality of [its] reasoning, the workability of the rule it established, its consistency with other related decisions, ... and reliance on the decision." *Id*. (quoting *Commonwealth v. Alexander*, 243 A.3d 177, 196 (Pa. 2020)). As to the quality of *Betancourt*'s reasoning, the City reiterates its position that the General Assembly did not intend to limit the scope of review for grievance arbitrations in passing Act 111. *Id*. at 9-10. The City also discounts the FOP's contention that stare decisis is given more weight in matters of statutory construction, explaining that the Court has been willing to overrule prior cases involving statutory construction. *Id.* at 10 (quoting *William Penn Sch. Dist. v. Pa. Dep't of Educ*., 170 A.3d 414, 456-57 (Pa. 2017)). Additionally, the City places little value on the fact that the General Assembly has not amended Act 111 since *Betancourt*. *Id.* (quoting *Commonwealth v. Small*, 238 A.3d 1267, 1285 (Pa. 2020) ("[The] Court's departure from the plain language of a statute should not be viewed categorically as placing the burden upon the General Assembly to detect our error and to marshal the resources to correct it.")).

As to the consequences of *Betancourt*, the City emphasizes that the narrow certiorari scope of review has "proven disastrously unworkable, leading to the reinstatement of police officers who have betrayed the public trust." *Id.* at 13. The City also diminishes the fact that courts have consistently followed *Betancourt*, because, in the City's view, these subsequent decisions have failed to "re-evaluat[e] [*Betancourt*'s] wisdom." *Id*. at 14. Lastly, regarding the reliance upon *Betancourt*, the City frames the reliance interest as being "the right to take actions in reliance upon the narrow scope of review of Act 111 grievance arbitrations[.]" *Id*. at 17. According to the City, this reliance is not protected by stare decisis because "reliance upon a narrow scope of review does not provide a guide to lawful behavior (and, on the contrary, frequently supports **unlawful**,

or at least highly inappropriate, behavior)." *Id*. at 17-18 (emphasis in original). The City also mentions in passing that "the scope of review is a procedural rule" but fails to develop an argument as to why this would have an impact on stare decisis. *Id.* at 17.

Amici[17]

The City's Amici collectively highlight that continuing to follow *Betancourt* is untenable because unreasonable and egregious arbitration decisions undermine the public trust, especially when police officers play such an important role in society. The City's Amici highlight that sexual harassment is a "harmful and pervasive problem in Pennsylvania law enforcement agencies" that poses a threat to public safety by undermining officer and squad effectiveness. Women's Law Project Amicus Brief at 5, 16-18; Pennsylvania Chiefs of Police Amicus Brief at 19-23.

The FOP's Amici each reiterate that the narrow certiorari scope of review comports with the text and history of Act 111 and that stare decisis compels the Court to uphold *Betancourt*. Amicus Pennsylvania AFL-CIO additionally argues that modifying the scope of review will undermine contractual provisions agreed to by public employers and unions. Pennsylvania AFL-CIO's Amicus Brief at 8-9.

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[17] The following amici filed briefs in support of the City: 1) Citizens Police Oversight Commission; 2) Women's Law Project and the Pennsylvania Coalition Against Domestic Violence; 3) the Advocacy for Racial and Civil Justice Clinic at the University of Pennsylvania Carey School of Law, Defender Association of Philadelphia, & American Civil Liberties Union of Pennsylvania; 4) the Pennsylvania Chiefs of Police Association; 5) Pennsylvania State Association of Township Supervisors, Pennsylvania Municipal League, Pennsylvania State Association of Boroughs, and Pennsylvania State Association of Township Commissioners; and 6) the City of Pittsburgh.

The following amici filed briefs in support of the FOP: 1) the Pennsylvania AFL-CIO; 2) Pennsylvania Lodge, Fraternal Order of Police; and 3) the Pennsylvania Professional Firefighters Association, and the International Association of Firefighters, Local No. 1.

IV. Analysis

As the City asks us to overturn *Betancourt*, or alternatively, *Smith*, we must address the doctrine of stare decisis. As this presents a pure question of law, our standard of review is de novo, and our scope of review is plenary. *Tincher v. Omega Flex, Inc.*, 104 A.3d 328, 351 (Pa. 2014). Stare decisis "derives from the Latin maxim 'stare decisis et non quieta movere,' which means to stand by the thing decided and not disturb the calm." *Alexander*, 243 A.3d at 195 (quoting *Ramos v. Louisiana*, 590 U.S. 83, 115 (2020) (Kavanaugh, J., concurring in part)). It is "preferable for the sake of certainty, … to follow even questionable decisions because stare decisis promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process." *Id*. at 196 (internal quotations and citations omitted).

However, because "precedent is not infallible, … judicial honesty demands corrective action in appropriate cases." *Tincher,* 104 A.3d at 352. To overturn precedent, we "require[] a 'special justification, over and above the belief that the precedent was wrongly decided.'" *Allegheny Reprod. Health Ctr. v. Pa. Dep't of Hum. Servs.*, 309 A.3d 808, 850 (Pa. 2024) (quoting *Alexander*, 243 A.3d at 196) (internal citations omitted). In determining whether there is a special justification to depart from precedent, we analyze "a number of factors, including the age and lineage of the decisions, as well as 'the quality of [its] reasoning, the workability of the rule it established, its consistency with other related decisions, … and reliance on the decision.'" *Id.* (quoting *Alexander*, 243 A.3d at 196-97).

Another important consideration informing the analysis is whether the precedent involves a question of statutory interpretation or constitutional interpretation. As to the former, stare decisis "implicate[s] greater sanctity because the legislature can

prospectively amend the statute if it disagrees with a court's interpretation." *Doughty*, 126 A.3d at 955. Conversely, stare decisis "is at its weakest when we interpret the Constitution because our interpretation can be altered only by a constitutional amendment or by overruling our prior decisions." *Alexander*, 243 A.3d at 177-78 (quoting *Agostini v. Felton*, 521 U.S. 203, 235 (1997)).

A. *Betancourt* and narrow certiorari scope of review

i. Age and lineage of *Betancourt*

When analyzing the age and lineage of a decision, we note that "[c]ases with a long lineage tend to have multiple precedents to overcome, making it challenging to overrule one decision without disrupting an entire area of law." *Allegheny Reprod. Health Ctr.*, 309 A.3d at 887. In addition, we "are generally more hesitant to overturn longstanding decisions involving questions of statutory interpretation, reasoning that the longer the decision has been on the books, the longer the legislature had to step in if they felt something needed to be corrected." *Id.*

Betancourt was decided in 1995, and this Court has repeatedly followed its holding in Act 111 grievance arbitration cases ever since. *See N. Berks*, 230 A.3d at 1027; *City of Pittsburgh*, 224 A.3d at 713; *City of Phila. v. Fraternal Ord. of Police Lodge No. 5 (Breary)*, 985 A.2d 1259, 1266 (Pa. 2009); *Town of McCandless v. McCandless Police Officers Ass'n*, 901 A.2d 991, 996 (Pa. 2006); *Smith*, 741 A.2d at 1251. Given this Court's frequent and consistent application of *Betancourt* and the narrow certiorari scope of review, it would be a significant departure to now reverse course and hold that *Betancourt* was wrong ab initio.

Moreover, as described, *Betancourt* based its holding in large part on cases that preceded it. *See City of Washington*, 259 A.2d at 441 (holding that narrow certiorari is the proper scope of review of arbitration awards rendered pursuant to Act 111, without

distinguishing between grievance arbitrations and interest arbitrations); *Chirico*, 470 A.2d at 474 (determining that "the only method for settling grievance disputes allowable within the framework of Act 111 is arbitration[,]" even though Act 111 does not set forth a specific procedure for the arbitration of grievances). *Betancourt* was not decided in a vacuum, and it did not break new ground in clarifying that the narrow certiorari scope of review applies to grievance arbitrations in the same manner as interest arbitrations. If we were to overturn *Betancourt*, it would not only disrupt the long lineage of cases decided subsequently but also call into question the cases preceding *Betancourt*.

We also emphasize that the General Assembly has not amended the pertinent language of Section 7 of Act 111, which precludes the appeals of grievance arbitration awards, in the thirty years following *Betancourt*. We recently rejected a similar call to overturn precedent involving a matter of statutory interpretation where the General Assembly did not amend the statute at issue following our initial decision in 1999. *See Yoder v. McCarthy Constr., Inc.*, 345 A.3d 668 (Pa. 2025). In *Yoder*, the appellant requested that this Court overturn *Fonner v. Shandon, Inc.*, 724 A.2d 903 (Pa. 1999), which reiterated that Section 203 of the Workers' Compensation Act provides a general contractor with statutory employer immunity from common law negligence claims. We noted that "[n]otwithstanding jurists' qualms with *Fonner*'s result and explicit calls that the General Assembly act, that policy-making branch has enacted no change to suggest that our decades-old interpretation of the Act is contrary to its intent." *Yoder*, 345 A.3d at 683. We again emphasized that stare decisis "implicate[s] greater sanctity" in matters of statutory interpretation "because the legislature can prospectively amend the statute if it disagrees with a court's interpretation." *Id.* (quoting *Doughty*, 126 A.3d at 955).

Here, the General Assembly has similarly failed to act following *Betancourt*.[18] While this alone is not dispositive, it is a significant hurdle to overcome when claiming a special justification to depart from precedent. *See Allegheny Reprod. Health Ctr.*, 309 A.3d at 887. Unlike amendments to the Constitution—which require two layers of legislative approval in consecutive sessions and a vote by the people before becoming effective—statutes may be amended in the normal course of the General Assembly's business as the legislative branch of government. Given that there are fewer impediments for correcting alleged errors of statutory interpretation, we reason that the General Assembly's failure to act following our decision in *Betancourt* supports the notion that the Court's initial interpretation was correct. While the City is correct that the burden of correcting departures from the plain language of a statute should not be placed on the legislature, as we later discuss, we conclude that *Betancourt* did not so depart. Accordingly, the age and lineage factor weighs in favor of following *Betancourt* and stare decisis.

ii. Quality of *Betancourt*'s reasoning

To overcome stare decisis, it is not enough to demonstrate that the decision was wrongly decided or that the reasoning of the decision was flawed. Rather, one must show

[18] The General Assembly enacted a law in 1996—one year after *Betancourt* was decided—which allows for the collective bargaining between school administrators employed by school districts in first class cities and their public employers. *See* Act of April 9, 1929, P.L. 177, added by Act of July 11, 1996, P.L. 619, *as amended*, 71 P.S. § 371 ("Section 371"). Section 371 is virtually identical to Act 111 in that it provides administrators with "the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this [S]ection[,]" 71 P.S. § 371(a), sets forth an identical procedure and timeline to Act 111 for composing a board of arbitration, *id.* § 371(e), and includes the familiar language that "[n]o appeal shall be allowed to any court" in reference to the determination of the board of arbitration. *Id.* § 371(h). The Commonwealth Court has concluded that, like Act 111, the appropriate scope of review for arbitration awards under Section 371 is narrow certiorari. *Commonwealth Ass'n of Sch. Adm'rs ex rel. Axelrod v. Bd. of Educ.*, 740 A.2d 1225, 1228 (Pa. Commw. 1999).

that the reasoning of the decision was "egregiously wrong" or "patently flawed." *Id.* at 883 (internal quotation marks and citations omitted). As a preliminary matter, the *Betancourt* Court explained that in *City of Washington*, the Court held that narrow certiorari applied to review of Act 111 arbitration awards, and the Court did not limit its holding to apply only to interest arbitrations. *Betancourt*, 656 A.2d at 85 n.3 (citing *City of Washington*, 259 A.2d at 440). The *Betancourt* Court also observed that "this Court plainly declared in *Chirico* … that it was Act 111 that authorized grievance arbitration" and that "grievance[s] must be arbitrated in accordance with Act 111." *Betancourt*, 656 A.2d at 87 (citing *Chirico*, 470 A.2d at 474) ("[T]he only method for settling grievance disputes allowable within the framework of Act 111 is arbitration.")). Arguably, the general holding in *City of Washington* that narrow certiorari applies to the review of Act 111 arbitration awards, coupled with the specific holding in *Chirico* that "the only method for settling grievance disputes allowable within the framework of Act 111 is arbitration[,]" would have constituted a sufficient legal basis to conclude that narrow certiorari applies to the review of grievance arbitration awards.

Nonetheless, the Court continued its analysis, highlighting that because Act 111 "plainly declare[s] that 'policemen or firemen … shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this act[,]'" the General Assembly "expressed the unqualified intent that issues relating to grievance resolution be covered under Act 111." *Id.* at 88 (quoting 43 P.S. § 217.1). Despite this overarching statement of intent, the Court recognized that it was "obscured by the legislature's failure to provide as detailed a mechanism for grievance arbitration as it did for interest arbitration." *Id.* Given the perceived ambiguity in Act 111, the Court "review[ed] the history behind Act 111" in order "[t]o determine whether the legislature

intended that grievance arbitration awards have a different scope of review from interest arbitration awards[.]" *Id.*

The Court's preliminary analysis was not egregiously wrong nor patently flawed. It relied on past precedent for the threshold determination that grievance arbitration awards were controlled by Act 111 and then examined the language of Act 111 to ascertain whether the General Assembly intended to prohibit appeals of such awards. After finding no clear answer in the text of Act 111, the Court reasonably looked at the history of Act 111 to determine the intent of the legislature. *See* 1 Pa.C.S. § 1921(c)(7) ("When the words of a statute are not explicit, the intention of the General Assembly may be ascertained by considering, among other matters … [t]he contemporaneous legislative history.").

The City argues that "Act 111 is silent on the scope of review of grievance arbitrations[,]" and contends that "*Betancourt* over-relied upon the fact that Act 111 mentioned the word 'grievances' once." City's Brief at 29-30. However, this argument ignores the Court's holding in *Chirico* that "the only method for settling grievance disputes allowable within the framework of Act 111 is arbitration." *Chirico*, 470 A.2d at 475. Aside from a passing reference to *Chirico* in its reply brief,[19] the City does not offer any meaningful discussion of the case, let alone challenge the *Betancourt* Court's reliance on it for the threshold determination that grievance arbitrations are governed by Act 111.

While the City here does not dispute that Act 111 authorizes the arbitration of grievances, it argues that Section 7's prohibition of appeals applies only to interest arbitrations given that the prohibition references determinations by the board of arbitration set forth in Section 4 of the Act, which it maintains does not apply to grievance arbitrations.

[19] *See* City's Reply Brief at 6 n.1 (attempting to distinguish *Chirico* only by noting that it "did not concern the scope of appellate review of an arbitration appeal, but rather addressed whether the court of common pleas had jurisdiction in the first place").

Id. at 30-31 (citing 43 P.S. §§ 217.4(b), 217.7(a)). Consistent with the City's argument, Section 7's prohibition on appeals makes clear that "[n]o appeal **therefrom** shall be allowed to any court."[20] 43 P.S. § 217.7(a) (emphasis added). The word "therefrom" means "from that or it." *Therefrom*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/therefrom (last visited Dec. 11, 2025). Based on the preceding sentences of Section 7, it is apparent that "therefrom" refers to "[t]he determination of the majority of the board of arbitration[.]" 43 P.S. § 217.7(a). It is equally apparent that "[t]he determination of the majority of the board of arbitration[,]" *id.*, refers to the board of arbitration outlined in Section 4(b). *See* 43 P.S. § 217.4(b) ("The board of arbitration shall be composed of three persons, one appointed by the public employer, one appointed by the body of policemen or firemen involved, and a third member to be agreed upon by the public employer and such policemen or firemen."). Thus, upon reading Section 7 and Section 4(b) together, it becomes clear that Section 7's prohibition on appeals applies to arbitration awards rendered by a tripartite board of arbitration set forth in Section 4(b).

The *Betancourt* Court bound itself to the reasoning of its prior decision in *Moon*. The *Moon* Court explained that Section 4 "clearly relate[s] to a contract negotiation impasse and not to an alleged grievance" and held that "there is no clear intent that can be derived from the language of the Act to suggest that the procedure set forth in [S]ection 4 must be followed [in grievance arbitrations]." *Moon*, 498 A.2d at 1312. The unexamined

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[20] To reiterate, Section 7(a) provides, in pertinent part:

> (a) The determination of the majority of the board of arbitration thus established shall be final on the issue or issues in dispute and shall be binding upon the public employer and the policemen or firemen involved. Such determination shall be in writing and a copy thereof shall be forwarded to both parties to the dispute. No appeal therefrom shall be allowed to any court.

43 P.S. § 217.7(a).

holding in *Moon* that the procedures outlined in Section 4 of Act 111 do not apply to grievance arbitrations deserves attention. In *Chirico*—decided two years prior to *Moon*—this Court similarly concluded that the procedures outlined in Section 4 pertain to interest arbitrations. *Chirico*, 470 A.2d at 474. However, the *Chirico* Court reasoned that "it is clearly inadequate to recognize a right 'to a settlement of grievances or disputes[,]' while failing to provide any method for the implementation of those rights." *Id.* (quoting 43 P.S. § 217.1). Explaining that "[t]his obvious vacuum must not be countenanced" to permit grievances to be resolved by courts in a manner contrary to Act 111, the *Chirico* Court held that "the only method for settling grievance disputes allowable within the framework of Act 111 is arbitration." *Id*. at 475. As Section 4 is the only section of Act 111 that outlines the method of arbitration, *Moon*'s holding that Section 4 does not apply to grievance arbitrations is difficult to reconcile with *Chirico*'s holding that "the only method for settling grievance disputes allowable within the framework of Act 111 is arbitration." *Id.*

Neither *Moon* nor *Chirico* called attention to the structure of Section 4, which contains two separate subsections, (a) and (b).[21] While Section 4(a) clearly outlines the

[21] For reference, Section 4 provides, in its entirety:

> (a) If in any case of a dispute between a public employer and its policemen or firemen employes the collective bargaining process reaches an impasse and stalemate, or if the appropriate lawmaking body does not approve the agreement reached by collective bargaining, with the result that said employers and employes are unable to effect a settlement, then either party to the dispute, after written notice to the other party containing specifications of the issue or issues in dispute, may request the appointment of a board of arbitration.
>
> For purposes of this [S]ection, an impasse or stalemate shall be deemed to occur in the collective bargaining process if the parties do not reach a settlement of the issue or issues in

(continued…)

dispute by way of a written agreement within thirty days after collective bargaining proceedings have been initiated.

In the case of disputes involving political subdivisions of the Commonwealth, the agreement shall be deemed not approved within the meaning of this [S]ection if it is not approved by the appropriate lawmaking body within one month after the agreement is reached by way of collective bargaining.

In the case of disputes involving the Commonwealth, the agreement shall be deemed not approved within the meaning of this [S]ection if it is not approved by the Legislature within six months after the agreement is reached by way of collective bargaining.

(b) The board of arbitration shall be composed of three persons, one appointed by the public employer, one appointed by the body of policemen or firemen involved, and a third member to be agreed upon by the public employer and such policemen or firemen. The members of the board representing the public employer and the policemen or firemen shall be named within five days from the date of the request for the appointment of such board. If, after a period of ten days from the date of the appointment of the two arbitrators appointed by the public employer and by the policemen or firemen, the third arbitrator has not been selected by them, then either arbitrator may request the American Arbitration Association, or its successor in function, to furnish a list of three members of said association who are residents of Pennsylvania from which the third arbitrator shall be selected. The arbitrator appointed by the public employer shall eliminate one name from the list within five days after publication of the list, following which the arbitrator appointed by the policemen or firemen shall eliminate one name from the list within five days thereafter. The individual whose name remains on the list shall be the third arbitrator and shall act as chairman of the board of arbitration. The board of arbitration thus established shall commence the arbitration proceedings within ten days after the third arbitrator is selected and shall make its determination within thirty days after the appointment of the third arbitrator.

43 P.S. § 217.4.

specific events which shall constitute an impasse or stalemate in collective bargaining negotiations sufficient to trigger interest arbitration, Section 4(b) is limited to defining the composition of the board of arbitration, the timeframe and procedure for appointing the arbitrators, and the timeframe for commencing the arbitration after the arbitrators are selected. *See* 43 P.S. § 217.4(a)-(b). Section 4(b) makes no specific mention of impasses or stalemates. Instead, Section 4(b) sets forth generally applicable arbitration requirements that could apply to any grievance or dispute. Given that arbitration is the only method for resolution of disagreements between public employers and public employees under Act 111, it would have been reasonable to interpret Section 4(b) to apply to any arbitration conducted pursuant to the statute. In departing from this method for grievance resolution, the *Moon* Court reasoned that "there is nothing unique about a tripartite arbitration panel[,]" *Moon*, 498 A.2d at 1312, without reckoning with the fact that the legislature preferred a tripartite arbitration panel. The General Assembly treated dispute and grievance resolutions similarly: "policemen or firemen … shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this act." 43 P.S. § 217.1. Based on Section 1's clear statement of intent that grievances shall be resolved in accordance with the Act, and the generally applicable arbitration procedures in Section 4(b), the *Moon* Court could have looked to the entirety of Act 111, including the arbitration procedures in Section 4(b), to conclude that the procedures in Section 4(b) were applicable to grievance arbitrations.[22]

Betancourt relied upon *Moon*'s procedural distinction between interest and grievance arbitration. *Betancourt*, 656 A.2d at 87 n.10. Indeed, the Court's primary

[22] The parties do not question *Moon*. Pursuant to the CBA, the instant grievance was decided by a single arbitrator, *see* supra note 3. We observe that in another recent case a grievance was decided by a tripartite board of arbitration. *See City of Pittsburgh v. Fraternal Ord. of Police, Fort Pitt Lodge No. 1*, 344 A.3d 429, 434 (Pa. Commw. 2025).

reason for finding an ambiguity in Act 111 was "the legislature's failure to provide as detailed a mechanism for grievance arbitration as it did for interest arbitration." *Id.* at 88. Given this perceived failure of express intention, *Betancourt* broadly sought to ascertain "whether the legislature intended that **grievance** arbitration awards have a different scope of review from **interest** arbitration awards[.]" *Id.* at 89 (emphasis in original). In analyzing this question, the Court did not engage with Section 7's specific language prohibiting appeals from a "determination of the majority of the board of arbitration[.]" 43 P.S. § 217.7(a). Thus, if there is a failure of *Betancourt*, it emanates from *Moon* and its failure to account for the fact that Section 4(b) was not necessarily limited to interest arbitrations. If *Moon* had concluded that the method for arbitration detailed in Section 4(b) applied to both interest and grievance arbitrations, there would be no disconnect between Section 4(b) and Section 7's prohibition of appeals "therefrom." *Id*.

However, even if this was an interpretive error, it is not an error that impacts the correctness of *Betancourt*'s holding because under either analysis, the narrow certiorari scope of review applies to grievance arbitration decisions. *Betancourt*, and *Chirico* before it, correctly discerned the comprehensive intention of the legislature by concluding that it "eschewed judicial interference in grievance arbitration" and "that the objective of Act 111 'would be completely frustrated if we were to impose, by judicial fiat, a layer of court intervention.'" *Betancourt*, 656 A.2d at 89 (quoting *Chirico*, 470 A.2d at 475). That this conclusion is correct is supported by recognizing that grievance arbitrations resolve differences of opinion over the application and interpretation of collective bargaining agreements, the formation of which are indisputably authorized by Act 111 and that any impasses in their negotiations are subject to non-appealable arbitration decisions. If negotiation of the contract is subject to non-appealable arbitration, then enforcement through grievance arbitration should be afforded the same protection.

Given the ambiguity in Act 111, we address the City's argument that Section 4 should be read in its entirety to apply only to interest arbitrations and thus, Section 7's prohibition on appeals from an award of a tripartite board of arbitration also only applies to interest arbitrations. However, this construction does not account for Section 1's directive that both grievances and disputes be resolved pursuant to the Act. Even if we assume for the sake of stare decisis analysis that the City's incomplete interpretation is reasonable, any disagreement with *Betancourt* is based on a different interpretation of an ambiguity in Act 111. Such a disagreement does not make that historical precedent egregiously wrong so as to support overruling it.

As to the history of Act 111, the City argues that the *Betancourt* Court conflated the legitimate policy reasons for preventing protracted appellate litigation stemming from interest arbitrations as having the same relevance in the grievance arbitration context. City's Brief at 33-34. The City explains that while it makes sense to prohibit appeals of interest arbitrations to avoid scenarios where entire departments are out of work for extended periods of time, the same logic does not apply to grievances involving only one or few employees. *Id.* (citing *Pa. State Police*, 810 A.2d at 1247 n.6 (Saylor, J., dissenting) ("Good reason exists to differentiate legislative purposes related to impasses and grievances, since bargaining impasses implicate a far more immediate and direct potential for destabilization in the workforce (the seminal concern of Act 111) than does the resolution of individual grievances.")). While impasses certainly have a greater potential for destabilization, it was not unreasonable to recognize the potential reverberations of prolonged individual grievances on the workforce.

In sum, the City essentially repeats the same arguments raised by the State Police in *Betancourt*. We explained in *Yoder* that when seeking to overturn precedent, the appellant "must do more than proclaim [the precedent] is wrong to prevail now. In other

words, it is not enough for [an appellant] to rehash the appellant's arguments from [the case sought to be overturned]." *Yoder*, 345 A.3d at 681. Ultimately, although the *Betancourt* Court could have reached a different result based on the text of Act 111, or could have reached the same result based on a different analysis, we reiterate that the Court's reasoning in reaching its holding was not egregiously wrong nor patently flawed. In light of existing precedent, the Court, after detecting an ambiguity in the text of Act 111, reasonably relied on the history of the Act to resolve the ambiguity. *See* 1 Pa.C.S. § 1921(c)(7).

iii. Workability of narrow certiorari scope of review

The City contends that the scope of review is unworkable in the sense that it leads to the "reinstatement of officers who have betrayed the public trust." City's Brief at 24. Here, the City conflates controversial outcomes of grievance arbitrations with the workability of the narrow certiorari scope of review itself. Precluding judicial review of grievance arbitration awards—whether the awards are correct or outrageously wrong—is exactly what the General Assembly intended, as interpreted by *Betancourt*. The fact that questionable grievance arbitration awards are subject to the narrow certiorari scope of review is not proof that the scope of review is unworkable. The City does not claim that any of the four areas of inquiry set forth in the narrow certiorari scope of review are unable to be applied by courts reviewing grievance arbitration awards. Instead, the City's workability argument is based on its disagreement with the outcome of narrow certiorari review as applied to controversial arbitration decisions. While we might also find some outcomes distasteful, correcting course by allowing more robust judicial review is a matter for the General Assembly. *See Yoder*, 345 A.3d at 684 ("[W]e again direct Yoder and other proponents of changes to the Act to appropriate policy-making branch—the General Assembly.").

iv. *Betancourt*'s consistency with other related decisions

As discussed with respect to our discussion of the quality of reasoning factor, *Betancourt* relied on precedent from this Court to reach its conclusion that the narrow certiorari scope of review applies to grievance arbitration awards. *See* supra p. 36. This Court has consistently applied *Betancourt*'s holding in Act 111 grievance arbitration cases. *See* supra p. 33. The City diminishes these subsequent cases because, while the Court has followed *Betancourt*, the Court has not "re-evaluat[ed] its wisdom." City's Reply Brief at 14. The City's argument only strengthens the support for stare decisis as this Court's consistent following of *Betancourt* demonstrates that this issue has long been settled. The City's justification for overturning *Betancourt* would flip stare decisis on its head because the entire point of the doctrine is to respect precedent that has been decided. If we revisit precedent simply to "re-evaluate its wisdom[,]" *id.*, stare decisis would be meaningless.

The City also claims that the holding from *Betancourt* "is inconsistent when compared to other government workers [under PERA,]" which was enacted in 1970. City's Reply Brief at 16. However, this argument ignores that the General Assembly specifically intended for police officers and firefighters to be excluded from PERA. *See* 43 P.S. § 1101.301(2) ("'Public employe' or 'employe' … shall not include … those employees covered under the act of June 24, 1968 (Act No. 111)[.]"). Indeed, the exclusion of Act 111 employees from PERA's scope indicates a clear legislative intent to establish different procedures for other public employees. This Court does not have the authority to rewrite Act 111's prohibition on appeals, nor does this Court have the authority to substitute its own policy judgment in place of the General Assembly's.

v. Reliance on *Betancourt*

"[W]here there has been substantial public or private reliance on precedent—and where overruling a decision would 'dislodge settled rights and expectations or require and extensive legislative response[,]' stare decisis has added force." *Allegheny Reprod. Health Ctr.*, 309 A.3d at 888 (quoting *Hilton v. S.C. Pub. Railways Comm'n*, 502 U.S. 197, 202 (1991)). The FOP, as the party seeking to uphold *Betancourt*, makes no developed reliance argument. Rather, in one sentence, the FOP argues that *Betancourt* "has been standing law relied upon by police and firefighters for decades." FOP's Brief at 33. Given the FOP's lack of a developed argument, we do not address this factor.

Based on our foregoing discussion of the stare decisis factors, we conclude that the City has not established a special justification to depart from *Betancourt*. Accordingly, we reaffirm *Betancourt* and reiterate that the proper scope of review for grievance arbitration awards under Act 111 is narrow certiorari.[23]

B. *Smith* and the limited public policy exception

Alternatively, the City argues that we should adopt a limited public policy exception to the narrow certiorari scope of review. The City faces the same stare decisis hurdle in advocating for this limited exception given our decision in *Smith* where we specifically rejected the same argument, explaining:

> Broadening the narrow certiorari scope of review to include a provision which would allow the courts to interfere with an arbitrator's award whenever that award could be deemed to be violative of "public policy"—however that nebulous concept may be defined by a particular appellate court—would greatly expand the scope of review in these matters. If we were to adopt the State Police's recommendation to include this ill-

[23] Given that we reject the City's call to overturn *Betancourt*, we have no reason to analyze the City's arguments in support of adopting either the J.N.O.V. scope of review set forth at 42 Pa.C.S. § 7302(d)(2) of the UAA, or the essence test applied to review of arbitration awards arising under PERA. *See* City's Brief at 43-48.

> defined term within the narrow certiorari scope of review, we would markedly increase the judiciary's role in Act 111 arbitration awards. This would undercut the legislature's intent of preventing protracted litigation in this arena.

Smith, 741 A.2d at 1252-53.

The City does not separately address the stare decisis factors to support its alternative argument to overturn *Smith*. *See* City's Brief at 49-52. Rather, it merely "note[s] that the *Smith* Majority itself was narrow, with three Justices reasoning that an arbitrator should be reversed if he violated public policy." *Id.* at 49-50 (citing *Smith*, 741 A.2d at 1253 (Castille, J., concurring); *id.* at 1254 (Nigro, J., concurring); *id.* at 1255 (Newman, J., dissenting). A narrow majority is certainly not a special justification to overturn precedent, as many of our decisions are based on narrow majorities. Moreover, the *Smith* Court grounded its decision to reject the limited public policy exception based on *Betancourt* and the rationale that the "severe limits placed on our appellate authority were not self-imposed" but instead "dictated by the legislature[.]" *Smith*, 741 A.2d at 1251. Thus, the Court concluded that "[i]f we were to broaden the narrow certiorari scope of review to the extent propounded by the State Police, we would not be interpreting Act 111 but rather would be rewriting it." *Id.* at 594.

The City does not advance any compelling reason to revisit *Smith*. The City claims that because the Court has adopted a limited public policy for arbitrations arising under PERA, "the *Smith* Majority's concern that the public policy test would be vague and ill-defined has not proven correct." City's Brief at 51. As noted previously, *see* supra p. 45, the City's reliance on precedent interpreting PERA is misplaced because PERA explicitly excludes "employees covered under [Act 111]." 43 P.S. § 1101.301(2). If we were to adopt a limited public policy exception based on our precedent involving PERA, we would rewrite the legislatively created distinction between Act 111 and PERA. Since PERA's inception in 1970, this Court has always employed the essence test as the scope of review

for grievance arbitrations arising under PERA. *Westmoreland,* 939 A.2d at 862-63 (citing *Cmty. Coll. of Beaver Cnty.*, 375 A.2d at 1275). While we have since adopted a limited public policy exception to the essence test, it is clear that the exception only applies to PERA arbitrations.[24] *Id.* at 865 (explaining that "like our adoption of the federal essence test for purposes of PERA, we conclude that the federal public policy exception is appropriately applied to arbitrator's awards arising under PERA as well").

For similar reasons, we reject the City's reliance on this Court's recognition of public policy in other contexts to support its argument that we should adopt a limited public policy exception here. *See* supra p. 27. None of the cases relied upon by the City arise under Act 111, nor did our invocation of public policy in those circumstances conflict with a legislatively enacted statute. Pursuant to stare decisis, we have no basis to look beyond *Smith* and its clear rejection of a limited public policy exception in Act 111 cases.

V. Conclusion

For the reasons stated, the City has failed to establish a special justification to overturn our decisions in *Betancourt* and *Smith*. Thus, we adhere to stare decisis and affirm the judgment of the Commonwealth Court. Since we reaffirm *Betancourt* and the

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[24] We acknowledge the City's and the Concurring and Dissenting Opinion's argument that under the limited public policy exception applicable to PERA, we have recognized that an arbitrator's award of reinstatement with back pay "violate[d] a well-defined and dominant public policy against sexual harassment in the workplace, a public policy which is grounded in both the federal and state law against sex discrimination in employment, including Title VII, the regulations of the [Equal Employment Opportunity Commission], and this Commonwealth's own [Pennsylvania Human Relations Act]." *Phila. Hous. Auth. v. Am. Fed'n of State, Cnty. & Mun. Emps.*, 52 A.3d 1117, 1127 (Pa. 2012). Our decision in the instant case does not in any way alter our determination that the Commonwealth has a well-defined and dominant public policy against sexual harassment in the workplace. However, given this Court's interpretation of Act 111 in *Betancourt* and *Smith*, we are constrained by stare decisis to conclude that this public policy cannot expand the "severe limits placed on our appellate authority … dictated by the legislature[.]" *Smith*, 741 A.2d at 1251. It is for the General Assembly to address any public policy inconsistencies.

application of the narrow certiorari scope of review, the General Assembly again has the opportunity and prerogative to correct course if our decision is not consistent with its intent.

Justices Dougherty, Wecht, Mundy, Brobson and McCaffery join the opinion.

Chief Justice Todd files a concurring and dissenting opinion.