

STATE OF MICHIGAN
COURT OF APPEALS

POLICE OFFICERS LABOR COUNCIL and
MOUNT CLEMENS POAM,

UNPUBLISHED
August 21, 2001

Petitioners-Appellants,

v

No. 221902
Macomb Circuit Court
LC No. 98-004460-AA

CITY OF MOUNT CLEMENS,

Respondent-Appellee.

Before: Jansen, P.J., and Collins and Cooper, JJ.

MEMORANDUM.

Petitioners appeal by delayed leave granted from an order granting respondent's motion to dismiss and denying petitioners' motion for leave to amend its petition for review of respondent's decision to uphold the termination of Mortarice Collier's employment as a Mount Clemens police officer. We affirm.

The trial court did not err in denying petitioners' motion for leave to amend. The motion was based on MCR 7.105(B)(2), which provides:

The court need not dismiss an action incorrectly initiated under some other rule, if it is timely filed and served as required by this rule and the applicable statute. Instead, leave may be freely given, when justice requires, to amend an appeal and a response to conform to the requirements of this rule and otherwise proceed under this rule.

This rule authorizes an amendment, rather than dismissal, of an action that is "incorrectly initiated under some other rule[.]" The petition in this case specifically alleged that it was

“governed by MCR 7.105.” Because the present action was not initiated under some other rule, MCR 7.105(B)(2) is not applicable and, therefore, did not authorize the proposed amendment.

Affirmed.

/s/ Kathleen Jansen
/s/ Jeffrey G. Collins
/s/ Jessica R. Cooper