

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

David S. Hutchings v. Tony Mattivi

Hutchings · No. 24-4080-DDC · Decided January 21, 2026

SUMMARY

The United States District Court for the District of Kansas denies defendant Tony Mattivi’s motion for summary judgment in David S. Hutchings’s action concerning the termination of his employment with the Kansas Bureau of Investigation. The court holds that Kansas law, particularly Kan. Stat. Ann. § 75-711(c), provided Hutchings with a right to return to KBI employment after serving as associate director, thereby creating a protected property interest under the Fourteenth Amendment. The court applies the Kansas Supreme Court’s reasoning in Bruce v. Kelly and rejects arguments distinguishing the KBI statute from the comparable Kansas Highway Patrol statute.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Daniel D. Crabtree
JURISDICTION	United States District Court for the District of Kansas
DECIDED	January 21, 2026
DOCKET	24-4080-DDC
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment on plaintiff's Fourteenth Amendment procedural due process and Kansas tortious-interference claims, arguing that plaintiff lacked a protected property interest in continued KBI employment. The court denied the motion.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The evidence and reasonable inferences are viewed in the light most favorable to the nonmovant. The existence of a state-law property interest is a question of law.
PRECEDENTIAL VALUE	unpublished

TOPICS

procedural due process

fourteenth amendment

employment law

statutory interpretation

intentional interference with expectancy

PRACTICE AREAS

constitutional law

civil rights

employment law

Kansas state statutory interpretation

tortious interference

QUESTIONS PRESENTED

1. Whether Kan. Stat. Ann. § 75-711(c) gives a KBI associate director who was previously a KBI employee a right to return to KBI employment when the associate-director appointment ends through termination.
2. Whether the Kansas Supreme Court's interpretation of the analogous Kansas Highway Patrol right-to-return statute in *Bruce v. Kelly* applies to the KBI statute despite differences in statutory terminology, employee classification, and the specificity of the position to which the employee must return.
3. Whether the KBI statute requires return to the employee's prior position and classification status, rather than merely to some position with comparable compensation.
4. Whether defendant's new arguments concerning the elements of plaintiff's tortious-interference claim, raised for the first time in reply, should be considered on summary judgment.

HOLDINGS

1. Section 75-711(c) provides a KBI associate director who was previously a KBI member with a right to return to KBI employment when the associate-director appointment ends, including when the employment is terminated. That statutory right creates a constitutionally protected property interest sufficient to support plaintiff's due process and related claims.
2. The statutory use of expiration does not exclude termination. In this statutory context, expiration can encompass termination, so termination of a KBI associate director triggers the right-to-return protection.
3. The differences between the statutes do not materially distinguish *Bruce*. The fact that the KHP provision historically applied to both classified and unclassified employees, and that the KBI provision describes the return position more generally, does not defeat the conclusion that the KBI provision creates a right to return to employment.
4. Section 75-711(c), interpreted in light of *Bruce*, contemplates a continuing employment relationship and suggests that an eligible employee must revert to the position and classification status held before appointment as associate director, subject to the statute's compensation and temporary-position provisions.
5. The court would not consider defendant's arguments that plaintiff could not prove intentional misconduct or reasonable certainty of continued employment because defendant raised them for the first time in his reply brief.

KEY QUOTATIONS

“Applying Bruce’s reasoning, the KBI statute’s right-to-return provision “compel[s] an appointing authority to return [an appointed] employee” to employment—instead of terminating his employment altogether.” (at 1024)

“The court thus denies defendant’s motion.” (conclusion)

FACTUAL BACKGROUND

David S. Hutchings worked for the Kansas Bureau of Investigation beginning in 1990 and became associate director in 2011, a position classified as unclassified under Kansas law. After Tony Mattivi became KBI director in 2023, he told Hutchings to step down and expressed a preference that Hutchings leave the agency. Hutchings was placed on administrative leave and his KBI employment ended on July 31, 2023. Hutchings argued that Kan. Stat. Ann. § 75-711(c) gave him a right to return to KBI employment upon the end of his associate-director appointment.

PROCEDURAL HISTORY

Plaintiff sued Tony Mattivi in his official and individual capacities after his employment with the Kansas Bureau of Investigation ended. Defendant moved to dismiss and later moved for summary judgment. The court had previously rejected defendant's argument that the Kansas KBI statute's right-to-return protection applied only upon expiration rather than termination. In this memorandum and order, the court denied summary judgment because the statute created a protected property interest in returning to KBI employment and because defendant's new reply arguments concerning the tortious-interference claim were waived.

DISPOSITION

other

CASES CITED

- Scott v. Harris, 550 U.S. 372, 378 (2007)
- Bruce v. Kelly, 514 P.3d 1007 (Kan. 2022)
- Nahno-Lopez v. Houser, 625 F.3d 1279, 1283 (10th Cir. 2010)
- Oldenkamp v. United American Insurance Co., 619 F.3d 1243, 1245-1246 (10th Cir. 2010)
- Tompkins v. U.S. Department of Veterans Affairs, 16 F.4th 733, 739 n.7 (10th Cir. 2021)
- McDonald v. Wise, 769 F.3d 1202, 1210 (10th Cir. 2014)
- Driggins v. City of Oklahoma City, 954 F.2d 1511, 1513 (10th Cir. 1992)
- Finstuen v. Crutcher, 496 F.3d 1139, 1148 (10th Cir. 2007)
- Bruce v. Kelly, No. 20-4077-DDC, 2024 WL 3400240, at *5, *7 (D. Kan. July 12, 2024)
- United States v. Harrell, 642 F.3d 907, 918 (10th Cir. 2011)
- Carter v. Spirit AeroSystems, Inc., 2019 WL 3732684, at *12 (D. Kan. Aug. 8, 2019), aff'd, 827 F. App'x 864 (10th Cir. 2020)
- United States v. Roe, 913 F.3d 1285, 1299 n.18 (10th Cir. 2019)

- Iowa Credit Union League v. National Credit Union Administration Board, 2023 WL 6541324, at *1 (D. Kan. Oct. 6, 2023)
- Eucalyptus Real Est., LLC v. Innovative Work Comp Sols., LLC, 642 F. Supp. 3d 1273, 1281 (D. Kan. 2022)
- H&C Animal Health, LLC v. Ceva Animal Health, LLC, 499 F. Supp. 3d 920, 935 (D. Kan. 2020)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248-249 (1986)
- Adler v. Wal-Mart Stores, Inc., 144 F.3d 664, 670-671 (10th Cir. 1998)
- Kannady v. City of Kiowa, 590 F.3d 1161, 1169 (10th Cir. 2010)
- Trainor v. Apollo Metal Specialties, Inc., 318 F.3d 976, 979 (10th Cir. 2002)
- Sigmon v. CommunityCare HMO, Inc., 234 F.3d 1121, 1125 (10th Cir. 2000)
- Reed v. Bennett, 312 F.3d 1190, 1194-1195 (10th Cir. 2002)
- Celotex Corp. v. Catrett, 477 U.S. 317, 324, 327 (1986)
- Libertarian Party of N.M. v. Herrera, 506 F.3d 1303, 1309 (10th Cir. 2007)
- Tucker v. Faith Bible Chapel Int'l, 36 F.4th 1021, 1030-1031 (10th Cir. 2022)

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