

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State ex rel. Wooten v. Coal Mine Safety Board of Appeals

226 W. Va. 508 (2010) · Decided November 1, 2010

SUMMARY

The Supreme Court of Appeals of West Virginia considered consolidated appeals involving the temporary suspension and permanent decertification of a coal miner following a fatal mining accident. The court held that the Coal Mine Safety Board of Appeals exceeded its legitimate powers by requiring the Office of Miners' Health, Safety and Training to submit a "proper application" before temporarily suspending the miner's certification, because that requirement lacked statutory or regulatory authority. The court reversed the circuit court's decisions and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Workman, Justice
JURISDICTION	West Virginia
DECIDED	November 1, 2010
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The West Virginia Office of Miners' Health, Safety and Training brought consolidated appeals from two Kanawha County Circuit Court orders: one dismissing its petition for a writ of prohibition against the Coal Mine Safety Board of Appeals and one affirming the Board's ninety-day decertification of William A. Coulson rather than the permanent decertification sought by the agency.
STANDARD OF REVIEW	Review of the circuit court's refusal to grant a writ of prohibition is de novo. On appeal from an administrative order, questions of law are reviewed de novo, while factual findings are accorded deference unless clearly wrong.
PRECEDENTIAL VALUE	Published West Virginia Supreme Court of Appeals opinion; precedential
PARTIES	West Virginia Office of Miners' Health, Safety and Training v. Coal Mine Safety Board of Appeals, William A. Coulson

TOPICS

mining law

administrative law

writ of certiorari

mootness

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Coal Mine Safety Board of Appeals exceeded its legitimate powers by requiring OMHST to submit a proper application before temporarily suspending a certified miner's certificate.
2. Whether the writ of prohibition issue was moot after the Board ultimately imposed a ninety-day decertification.
3. Whether the evidence established by a preponderance of the evidence that Coulson was under the influence of an intoxicant in violation of West Virginia Code of State Rule § 36-22-4.3.
4. Whether the circuit court properly reviewed the Board's administrative decision.

HOLDINGS

1. The writ of prohibition issue was not moot because the challenged requirement was capable of repetition in future miner-certification proceedings and could evade appellate review.
2. The Coal Mine Safety Board of Appeals exceeded its legitimate powers by modifying OMHST's temporary suspension based on an additional requirement that OMHST submit a proper application, because that requirement was not authorized by statute or regulation.
3. The circuit court erred in refusing to issue a writ of prohibition; the existence of a statutory appeal remedy did not alone preclude prohibition where the Board's recurring, legally unsupported procedural error presented important issues and threatened health and safety.
4. A violation of West Virginia Code of State Rule § 36-22-4.3 does not require proof of visible physical signs of intoxication; discernable conduct and circumstances may establish by a preponderance of the evidence that a miner was under the influence of an intoxicant.

KEY QUOTATIONS

"The Court, however, holds that the Coal Mine Safety Board of Appeals exceeds its legitimate powers when it modifies an order of temporary suspension of a certified miner's certificate based upon the imposition of an additional procedural requirement that the Director of the West Virginia Office of Miners' Health, Safety, and Training must make a proper application with the Coal Mine Safety Board of Appeals prior to ordering the temporary suspension of a certified person's certificate when such requirement was not contemplated by the procedural guidelines set forth in the West Virginia Code of State Rules §§ 37-2-1 to -2 (1983)." (517-518)

"The legal conclusion reached by the circuit court, as well as the Board, that the Appellee, Mr. Coulson, had to demonstrate visible signs of being under the influence of an intoxicant in order to be found in violation of West Virginia Code of State Rule § 36-22-4.3, as a matter of law, was erroneous." (520)

FACTUAL BACKGROUND

On October 19, 2008, William A. Coulson operated a locomotive that collided with mine equipment, causing the death of fellow miner Victor Goudy. Evidence showed that Coulson acknowledged Goudy's signal to stop by turning off his locomotive lights but did not slow down, failed to communicate with the crew ahead, and apparently did not know the crew's location. A post-accident drug test detected oxycodone and hydrocodone, although Coulson had a prescription only for hydrocodone and a coworker testified that he did not appear impaired.

PROCEDURAL HISTORY

After a fatal mine accident, OMHST charged Coulson with unsafe operation of mining equipment and being under the influence of an intoxicant, sought permanent withdrawal of his certifications, and temporarily suspended his certificate after the Board found probable cause. The Board reinstated the certificate pending hearing because OMHST had not made a purportedly required proper application, and after hearing imposed a ninety-day decertification while dismissing the intoxicant charge. The circuit court dismissed the prohibition action and affirmed the Board's decision; the Supreme Court of Appeals reversed both rulings and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the circuit court's dismissal of the writ of prohibition and enter an order consistent with the opinion. Reverse the circuit court's order affirming the Board's dismissal of the intoxicant charge and remand for further proceedings concerning assessment of penalties against Coulson under West Virginia Code § 22A-1-31.

CASES CITED

- State ex rel. Callahan v. Santucci, 210 W. Va. 483, 557 S.E.2d 890 (2001)
- Muscatell v. Cline, 196 W. Va. 588, 474 S.E.2d 518 (1996)
- State ex rel. Lilly v. Carter, 63 W. Va. 684, 60 S.E. 873 (1908)
- Tynes v. Shore, 117 W. Va. 355, 185 S.E. 845 (1936)
- Israel v. Secondary Schs. Activities Comm'n, 182 W. Va. 454, 388 S.E.2d 480 (1989)
- Hart v. National Collegiate Athletic Ass'n, 209 W. Va. 543, 550 S.E.2d 79 (2001) (per curiam)
- Firefighters Local Union No. 1781 v. Stotts, 467 U.S. 561, 81 L. Ed. 2d 483 (1984) (O'Connor, J., concurring)
- State ex rel. M.C.H. v. Kinder, 173 W. Va. 387, 317 S.E.2d 150 (1984)
- Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc., 528 U.S. 167, 145 L. Ed. 2d 610 (2000)
- United States v. Concentrated Phosphate Export Ass'n, 393 U.S. 199, 21 L. Ed. 2d 344 (1968)
- State ex rel. Richmond American Homes of W. Va., Inc. v. Sanders, 226 W. Va. 103, 697 S.E.2d 139 (2010)

- Crawford v. Taylor, 138 W. Va. 207, 75 S.E.2d 370 (1953)
- State ex rel. Hoover v. Berger, 199 W. Va. 12, 483 S.E.2d 12 (1996)
- State ex rel. Perry v. Miller, 171 W. Va. 509, 300 S.E.2d 622 (1983)
- State ex rel. Bluestone Coal Corp. v. Mazzone, 226 W. Va. 148, 697 S.E.2d 740 (2010)

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