

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Buck Ryan v. David Blackwell

No. No. 19-6447, United States Court of Appeals for the Sixth Circuit (November 3, 2020)

SUMMARY

The Sixth Circuit affirmed dismissal of a tenured professor's § 1983 retaliation claims. The due process retaliation claim failed because the professor received all process due (faculty committee hearing) and the university's press statement was not an adverse action that would chill a person of ordinary firmness. The First Amendment retaliation claim failed because the professor's speech about his own termination was an internal personnel dispute, not a matter of public concern. Additionally, qualified immunity protected the defendants because no clearly established constitutional right was violated.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	Suhrheinrich
JURISDICTION	Federal
DECIDED	November 3, 2020
DOCKET	No. 19-6447
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the dismissal of the complaint under Rule 12(b)(6) by the United States District Court for the Eastern District of Kentucky at Lexington.
STANDARD OF REVIEW	De novo review of a motion to dismiss under Rule 12(b)(6).
PRECEDENTIAL VALUE	Published
PARTIES	Buck Ryan v. David A. Blackwell, Joseph Reed, Derek Lane, Mike Farrell

TOPICS

- civil procedure
- motions to dismiss
- first amendment
- due process
- civil rights
- qualified immunity
- standard of review
- employment law

QUESTIONS PRESENTED

1. Whether the district court erred in dismissing the due process retaliation claim for failure to state a claim.
2. Whether the district court erred in dismissing the First Amendment retaliation claim for failure to state a claim.
3. Whether the defendants are entitled to qualified immunity.

HOLDINGS

1. The plaintiff failed to state a due process retaliation claim because he was not denied due process; the initiation of termination proceedings was the process he was entitled to, and the press statement was not an adverse action that would chill a person of ordinary firmness from asserting his rights.
2. The plaintiff failed to state a First Amendment retaliation claim because his speech was not on a matter of public concern, as it related to an internal personnel dispute rather than broader public issues.

KEY QUOTATIONS

“As a matter of policy, we do not discuss personnel matters in any detail. The audit in question is a matter of public record. It speaks for itself. What is most egregious about the audit’s findings is the fact that Professor Ryan stole from students. And he used university resources to do it. Both are violations of university policy; more importantly, both violate the trust that students and others place in us. That violation of trust is why we’ve had to take this step to seek the termination of a faculty member, a move we don’t make lightly but one that we must regrettably take. We will now follow a process led by faculty that is, as it should be, thorough, comprehensive and designed to be fair to all involved.” (3-4)

“The plausibility of an inference depends on a host of considerations, including common sense . . .” (5)

“Speech is of ‘public concern’ if it involves issues about which information is needed or appropriate to enable members of society to make informed decisions about the operation of their government.” (8)

FACTUAL BACKGROUND

Buck Ryan is a tenured associate professor of journalism at the University of Kentucky. In April 2018, an audit accused him of misusing department resources to profit from a textbook. He was asked to resign but refused. Subsequently, the University initiated termination proceedings. Ryan publicly challenged the university officials. He alleged that the defendants retaliated against him for asserting his due process rights by refusing to resign and for exercising his First Amendment rights by speaking out.

PROCEDURAL HISTORY

Ryan filed suit on April 29, 2019, alleging four counts. The district court dismissed the two federal claims (due process retaliation and First Amendment retaliation) under Rule 12(b)(6) for failure to state a claim and declined supplemental jurisdiction over the state law claims. Ryan appealed.

DISPOSITION

affirmed

CASES CITED

- Bates v. Green Farms Condo. Ass'n, 958 F.3d 470, 479–80 (6th Cir. 2020)
- Rudd v. City of Norton Shores, — F.3d —, No. 19-1226, 2020 WL 5905062, at *4 (6th Cir. 2020)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Boler v. Earley, 865 F.3d 391, 401 (6th Cir. 2017)
- Thaddeus-X v. Blatter, 175 F.3d 378, 386-87 (6th Cir. 1999) (en banc)
- Sam Han v. Univ. of Dayton, 541 F. App'x 622, 625 (6th Cir. 2013)
- Southfield Ltd. P'ship v. Flagstar Bank, F.S.B., 727 F.3d 503, 504 (6th Cir. 2013)
- Johnston-Taylor v. Gannon, 907 F.2d 1577, 1581 (6th Cir. 1990)
- Ziegler v. IBP Hog Mkt., Inc., 249 F.3d 509, 512 (6th Cir. 2001)
- Fritz v. Charter Twp. of Comstock, 592 F.3d 718, 724 (6th Cir. 2010)
- Samad v. Jenkins, 845 F.2d 660, 663 (6th Cir. 1988)
- Dye v. Office of the Racing Comm'n, 702 F.3d 286, 294 (6th Cir. 2012)
- Connick v. Myers, 461 U.S. 138, 147-48 (1983)
- Bennett v. Metro Gov't of Nashville & Davidson Cnty., — F.3d —, No. 19-5818, 2020 WL 5905067, at *4 (6th Cir. 2020)
- Van Compernelle v. City of Zeeland, 241 F. App'x 244, 249 (6th Cir. 2007)
- Farhat v. Jopke, 370 F.3d 580, 590 (6th Cir. 2004)
- Banks v. Wolfe Cnty. Bd. of Educ., 330 F.3d 888, 896 (6th Cir. 2003)
- Brandenburg v. Hous. Auth. of Irvine, 253 F.3d 891, 898 (6th Cir. 2001)
- Bonnell v. Lorenzo, 241 F.3d 800, 821 (6th Cir. 2001)
- Golembiewski v. Logie, 516 F. App'x 476, 477 (6th Cir. 2013)
- Gragg v. Ky. Cabinet for Workforce Dev., 289 F.3d 958, 966 (6th Cir. 2002)
- Ctr. for Bio-Ethical Reform, Inc. v. Napolitano, 648 F.3d 365, 369 (6th Cir. 2011)
- Wallace v. Oakwood Healthcare, Inc., 954 F.3d 879, 886 (6th Cir. 2020)
- Bible Believers v. Wayne Cnty., 805 F.3d 228, 257 (6th Cir. 2015)
- Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)
- Novak v. City of Parma, 932 F.3d 421, 426 (6th Cir. 2019)
- Ashcroft v. al-Kidd, 563 U.S. 731, 741 (2011)
- Anderson v. Creighton, 483 U.S. 635, 640 (1987)
- Kocsis v. Multi-Care Mgmt., 97 F.3d 876, 885–86 (6th Cir. 1996)