

SUPREME COURT OF NORTH CAROLINA

Wells v. Consolidated Judicial Retirement System of North Carolina,
354 N.C. 313

553 S.E.2d 877 (2001) · No. No. 156A00 · Decided November 9, 2001

SUMMARY

The Supreme Court of North Carolina held that the plaintiff's Consolidated Judicial Retirement System retirement allowance was properly suspended while he served as Chair of the North Carolina Utilities Commission and contributed to the Teachers' and State Employees' Retirement System. The court interpreted the interaction between Articles 1 and 4 of Chapter 135 of the North Carolina General Statutes and concluded that the applicable return-to-service provision barred simultaneous receipt of the judicial retirement allowance and state employee retirement-system contributions. A dissent argued that the statutes addressed separate retirement systems and did not clearly prohibit receipt of previously earned judicial benefits during service under the state employee system.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Martin, Justice; Orr, Justice
JURISDICTION	North Carolina
DECIDED	November 9, 2001
DOCKET	No. 156A00
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a trial court judgment affirming a final agency decision and granting defendants summary judgment; the Court of Appeals affirmed, and the Supreme Court of North Carolina affirmed the Court of Appeals.
STANDARD OF REVIEW	The court reviewed the interpretation and interplay of the retirement statutes and the agency's final decision. It independently construed the statutes while giving great weight to the longstanding administrative interpretation, particularly in light of legislative acquiescence.
PRECEDENTIAL VALUE	Published precedential decision of the Supreme Court of North Carolina; includes a dissent.

PARTIES

Hugh A. Wells v. Consolidated Judicial Retirement System of North Carolina, Board of Trustees of the Teachers' and State Employees' Retirement System of North Carolina, State of North Carolina

TOPICS

statutory interpretation

administrative law

judicial review of agency action

legislative intent

PRACTICE AREAS

administrative law

employment law

statutory interpretation

QUESTIONS PRESENTED

1. Whether a retired member receiving a Consolidated Judicial Retirement System allowance who returns to state employment as Chair of the North Carolina Utilities Commission and contributes to the Teachers' and State Employees' Retirement System may simultaneously receive the CJRS allowance.
2. Whether N.C.G.S. § 135-3(8)(c), made applicable to the Consolidated Judicial Retirement System through N.C.G.S. § 135-52, requires suspension of the CJRS allowance during the recipient's service as a contributing member of the Teachers' and State Employees' Retirement System.

HOLDINGS

1. A recipient of a CJRS retirement allowance who returns to state service as an employee and contributes to TSERS may not simultaneously receive the CJRS allowance; the allowance must be suspended during that service.

KEY QUOTATIONS

"The narrow question presented by this appeal is whether plaintiff's monthly CJRS retirement allowance was properly suspended during his active employment as Chair of the NCUC." (553 S.E.2d 879; 354 N.C. 317)

"We affirm the Court of Appeals and hold that the Board properly suspended plaintiff's retirement allowance during his service as Chair of the NCUC." (553 S.E.2d 879; 354 N.C. 317)

"The addition of the words 'under this Chapter' as a qualifier to 'early or service retirement allowance' clarifies that this provision was intended to apply to each of the articles within Chapter 135." (553 S.E.2d 880; 354 N.C. 318)

"Nevertheless, it is ultimately the duty of courts to construe administrative statutes; courts cannot defer that responsibility to the agency charged with administering those statutes." (553 S.E.2d 881; 354 N.C. 320)

FACTUAL BACKGROUND

Wells served as a judge on the North Carolina Court of Appeals from 1979 until his retirement in 1994 and became entitled to benefits under the Consolidated Judicial Retirement System. After retiring, he was appointed Chair of the North Carolina Utilities Commission, resumed receiving a state salary, and became a member of the

Teachers' and State Employees' Retirement System. His CJRS retirement allowance was suspended during his service as Chair and restored after he resigned.

PROCEDURAL HISTORY

An administrative law judge determined that Wells's Consolidated Judicial Retirement System retirement allowance was properly suspended while he served as Chair of the North Carolina Utilities Commission and contributed to the Teachers' and State Employees' Retirement System. The Board adopted that recommendation as its final agency decision. The trial court affirmed and entered summary judgment for defendants, and the Court of Appeals affirmed in a split decision. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Wells v. Consolidated Jud'l Ret. Sys. of N.C., 136 N.C. App. 671, 526 S.E.2d 486 (2000)
- Childers v. Parker's, Inc., 274 N.C. 256, 162 S.E.2d 481 (1968)
- Thornburg v. Consolidated Jud'l Ret. Sys. of N.C., 137 N.C. App. 150, 527 S.E.2d 351 (2000)
- Polaroid Corp. v. Offerman, 349 N.C. 290, 507 S.E.2d 284 (1998)
- State ex rel. Utilities Commission v. Public Staff, 309 N.C. 195, 306 S.E.2d 435 (1983)
- State v. Emery, 224 N.C. 581, 31 S.E.2d 858 (1944)
- Frye Regional Medical Center, Inc. v. Hunt, 350 N.C. 39, 510 S.E.2d 159 (1999)
- Thomas Jefferson University v. Shalala, 512 U.S. 504, 129 L. Ed. 2d 405 (1994)
- In re Appeal of Philip Morris U.S.A., 335 N.C. 227, 436 S.E.2d 828 (1993)
- State v. Ballance, 229 N.C. 764, 51 S.E.2d 731 (1949)
- Martin v. N.C. Housing Corp., 277 N.C. 29, 175 S.E.2d 665 (1970)
- Faulkenbury v. Teachers' & State Employees' Ret. Sys. of N.C., 345 N.C. 683, 483 S.E.2d 422 (1997)
- Simpson v. N.C. Local Gov't Employees' Ret. Sys., 88 N.C. App. 218, 363 S.E.2d 90 (1987), *aff'd per curiam*, 323 N.C. 362, 372 S.E.2d 559 (1988)
- Smith Chapel Baptist Church v. City of Durham, 350 N.C. 805, 517 S.E.2d 874 (1999)
- Lemons v. Old Hickory Council, BSA, Inc., 322 N.C. 271, 367 S.E.2d 655 (1987)
- Watson Indus. v. Shaw, 235 N.C. 203, 69 S.E.2d 505 (1952)
- In re Total Care, Inc., 99 N.C. App. 517, 393 S.E.2d 338 (1990), *disc. rev. denied*, 327 N.C. 635, 399 S.E.2d 122 (1991)
- Davis v. N.C. Dep't of Human Res., 349 N.C. 208, 505 S.E.2d 77 (1998)