

NEBRASKA SUPREME COURT

Robinson v. Morrill Cty. Sch. Dist. #63 and Morrill Cty. Bd. of Educ.

Robinson v. Morrill Cty. Sch. Dist. 63, 299 Neb. 740 (2018) · No. No. S-17-216 · Decided April 26, 2018

SUMMARY

The Nebraska Supreme Court affirmed the district court's decision upholding a school board's cancellation of a certificated employee's employment contract. The court held that notice was proper, the school board could retain counsel to conduct and oversee the hearing, and the employee failed to establish that the decisionmaker was biased or that the evidence was insufficient. The opinion also addresses due process and the standards for incompetency, neglect of duty, unprofessional conduct, and insubordination under Nebraska law.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Per Curiam; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.
JURISDICTION	Nebraska
DECIDED	April 26, 2018
DOCKET	No. S-17-216
DISPOSITION	affirmed
PROCEDURAL POSTURE	Patrick Robinson challenged the cancellation of his certificated-employee contract through a petition in error in the Morrill County District Court. After the district court affirmed the school board's decision, Robinson appealed to the Nebraska Supreme Court.
STANDARD OF REVIEW	In an error proceeding challenging a school board's termination of a certificated employee, the court determines whether the board acted within its jurisdiction and whether sufficient evidence as a matter of law supports its decision. Evidence is sufficient as a matter of law if a judge could not, in a jury trial, direct a verdict. Issues of statutory interpretation and other legal issues are reviewed independently.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Patrick Robinson v. Morrill County School District #63, Morrill County Board of Education

TOPICS

employment law

procedural due process

administrative law

appellate procedure

statutory interpretation

PRACTICE AREAS

employment law

education law

administrative law

constitutional law

QUESTIONS PRESENTED

1. Whether the school board provided legally sufficient public and actual notice of the contract-cancellation hearing.
2. Whether the school board's use of an attorney to preside over and assist with the hearing was authorized and proper.
3. Whether Robinson established that the school board was not an impartial decisionmaker in violation of procedural due process.
4. Whether evidence of Robinson's conduct during a prior contract period was relevant and admissible to support cancellation of his current contract.
5. Whether sufficient evidence supported findings of incompetency, neglect of duty, unprofessional conduct, and insubordination under Neb. Rev. Stat. § 79-827.
6. Whether Robinson's challenge to his paid suspension was preserved for appellate review.

HOLDINGS

1. The school board provided reasonable advance publicized notice of the hearing by a method it had regularly used and designated, and the failure to record the particular notice method in the meeting minutes did not invalidate otherwise adequate notice.
2. The school board properly retained an attorney to conduct and oversee the hearing, rule on objections, and receive evidence, because the attorney did not act as the statutory fact-finding hearing officer.
3. Robinson failed to establish that the school board was biased or that his procedural due process rights were violated.
4. A school board may consider all relevant conduct, including conduct occurring during a prior contract period, when determining whether to cancel a current employment contract.
5. Sufficient evidence as a matter of law supported the school board's findings of incompetency, neglect of duty, unprofessional conduct, and insubordination under Neb. Rev. Stat. § 79-827.
6. Robinson's challenge to his paid suspension was not preserved because he did not assign error to the suspension in his petition in error before the district court.

KEY QUOTATIONS

“When a person has a right to be heard, procedural due process includes notice to the person whose right is affected by a proceeding, that is, timely notice reasonably calculated to inform the person concerning the subject and issues involved in the proceeding; a reasonable opportunity to refute or defend against a charge

or accusation; a reasonable opportunity to confront and cross-examine adverse witnesses and present evidence on the charge or accusation; representation by counsel, when such representation is required by constitution or statute; and a hearing before an impartial decisionmaker.” (299 Neb. at 752-53)

““Incompetency,” in the context of this case, includes “demonstrated deficiencies or shortcomings in knowledge of subject matter or teaching or administrative skills.”” (299 Neb. at 758-59)

FACTUAL BACKGROUND

Robinson was hired in 2013 as curriculum and assessment coordinator for Bridgeport Public Schools. After a student-locker incident was investigated and found not to involve wrongdoing, Robinson became increasingly antagonistic toward school personnel, secluded himself in his office, refused meetings and collaboration, secretly recorded conversations, and responded hostilely to criticism. The school board held a hearing concerning cancellation of his contract and found incompetency, neglect of duty, unprofessional conduct, and insubordination, based in part on his conduct during a prior contract period and on deficiencies in his curriculum-related duties.

PROCEDURAL HISTORY

The school board held a formal hearing and unanimously canceled Robinson's employment contract. Robinson filed a petition in error in the Morrill County District Court, which affirmed the cancellation. The Nebraska Supreme Court moved the timely appeal to its docket on its own motion and affirmed.

DISPOSITION

affirmed

CASES CITED

- McQuinn v. Douglas Cty. Sch. Dist. No. 66, 259 Neb. 720, 612 N.W.2d 198 (2000)
- J.S. v. Grand Island Public Schools, 297 Neb. 347, 899 N.W.2d 893 (2017)
- Schauer v. Grooms, 280 Neb. 426, 786 N.W.2d 909 (2010)
- In re Interest of LeVanta S., 295 Neb. 151, 887 N.W.2d 502 (2016)
- Schweiker v. McClure, 456 U.S. 188, 102 S. Ct. 1665, 72 L. Ed. 2d 1 (1982)
- Hollingsworth v. Board of Education, 208 Neb. 350, 303 N.W.2d 506 (1981)
- Schulz v. Board of Education, 210 Neb. 513, 315 N.W.2d 633 (1982)
- Boss v. Fillmore Cty. Sch. Dist. No. 19, 251 Neb. 669, 559 N.W.2d 448 (1997)
- Eshom v. Board of Ed. of Sch. Dist. No. 54, 219 Neb. 467, 364 N.W.2d 7 (1985)
- Sanders v. Board of Education, 200 Neb. 282, 263 N.W.2d 461 (1978)
- Daily v. Board of Ed. of Morrill Cty., 256 Neb. 73, 588 N.W.2d 813 (1999)