

SUPREME COURT OF KENTUCKY

Sajko v. Jefferson County Board of Education

314 S.W.3d 290 (Ky. 2010) · No. 2009-SC-000021-DG · Decided June 17, 2010

SUMMARY

The Supreme Court of Kentucky interprets KRS 161.790(3), which governs a public school teacher's notice of intent to challenge dismissal. The court holds that when the statute requires a teacher to notify the commissioner of education and superintendent but does not specify a method of delivery, the notice must be received within ten days rather than merely mailed. The case is affirmed in part, reversed in part, and remanded for factual findings concerning when the teacher received the dismissal letter.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Noble; All sitting justices
JURISDICTION	Kentucky
DECIDED	June 17, 2010
DOCKET	2009-SC-000021-DG
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Discretionary review of the Court of Appeals' decision concerning whether a public school teacher's notice of intent to challenge dismissal was timely under KRS 161.790(3).
STANDARD OF REVIEW	The Supreme Court reviewed the interpretation of KRS 161.790(3) as a question of law and held that the lower reviewing courts could not make the unresolved factual finding concerning the date of Sajko's receipt of the dismissal letter.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential authority.
PARTIES	Cara Sajko v. Jefferson County Board of Education, Jefferson County Schools, Stephen Daeschner, Superintendent

TOPICS

statutory interpretation

administrative law

judicial review of agency action

appellate procedure

standard of review

PRACTICE AREAS

administrative law

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QUESTIONS PRESENTED

1. Whether KRS 161.790(3), which requires a teacher to notify the Commissioner of Education and the superintendent of an intention to answer dismissal charges within ten days after receiving the charges, is satisfied by mailing the notice within ten days or requires receipt within that period.
2. Whether the reviewing courts could determine the timeliness of Sajko's notice without an administrative factual finding regarding when she received the dismissal letter.

HOLDINGS

1. KRS 161.790(3) requires that the teacher's notice of intent to answer dismissal charges be received by the superintendent and Commissioner of Education within the ten-day period; mailing the notice within ten days is insufficient when the statute does not prescribe a method of delivery.
2. The court could not determine whether Sajko's notice was timely because the administrative tribunal had made no factual finding regarding when she received the dismissal letter; the matter had to be remanded for that finding and any necessary further proceedings.

KEY QUOTATIONS

“Where a statute uses language requiring the giving of notice and does not specify a means, receipt of the notice is necessary.” (298)

“This Court therefore holds that KRS 161.790(3) requires receipt of the teacher's notice within the ten-day period.” (299)

FACTUAL BACKGROUND

Jefferson County's superintendent sought to terminate Cara Sajko, a science teacher, for alleged insubordination and conduct unbecoming a teacher. The superintendent's dismissal letter was reportedly hand-delivered on March 28, 2005, although Sajko disputed receiving it that day. Sajko's counsel faxed a notice of intent to answer the charges after business hours on April 7, and copies mailed to the school system's counsel and the Commissioner of Education were received on April 8. The hearing officer allowed the matter to proceed on the theory that mailing within ten days was sufficient, and the administrative tribunal ultimately upheld the termination on the merits.

PROCEDURAL HISTORY

A hearing officer allowed Sajko's dismissal challenge to proceed after ruling that mailing the notice within ten days was sufficient. An administrative tribunal upheld her termination, and the Jefferson Circuit Court upheld the tribunal's decision. The Court of Appeals held that receipt, rather than mailing, was required and concluded that the notice was untimely, but the Supreme Court of Kentucky granted discretionary review and remanded for a factual finding concerning when Sajko received the dismissal letter.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the administrative tribunal and hearing officer to determine when Sajko received the dismissal letter and to conduct any further proceedings consistent with the opinion. If receipt occurred one day later than March 28, 2005, the notice was timely and the case should return to the Court of Appeals for consideration of the merits.

CASES CITED

- Fankhauser v. Cobb, 163 S.W.3d 389 (Ky. 2005)
- Louisville/Jefferson County Metro Government v. TDC Group, LLC, 283 S.W.3d 657, 661 (Ky. 2009)
- Energy Regulatory Commission v. Kentucky Power Co., 605 S.W.2d 46, 51-52 (Ky. App. 1980)
- Chambers v. City of Newport, 101 S.W.3d 904, 906 (Ky. App. 2002)
- Baldwin v. Fidelity Phenix Fire Ins. Co. of New York, 260 F.2d 951, 953-54 (6th Cir. 1958)
- Rapid Motor Lines, Inc. v. Cox, 134 Conn. 235, 56 A.2d 519, 521, 175 A.L.R. 296 (1947)
- Fairfield Packing Co. v. Southern Mut. Fire Ins. Co., 193 Pa. 184, 44 A. 317, 318 (1899)
- School Dist. RE-11J, Alamosa County v. Norwood, 644 P.2d 13, 15-16 (Colo. 1982)
- State ex rel. Peake v. Board of Ed. of South Point Local School Dist., 44 Ohio St. 2d 119, 339 N.E.2d 249, 251 (1975)
- Macke Laundry Service Ltd. Partnership v. Mission Associates, Ltd., 19 Kan. App. 2d 553, 873 P.2d 219, 222-24 (1994)
- Liberty Mut. Ins. Co. v. Caterpillar Tractor Co., 353 N.W.2d 854, 857 (Iowa 1984)
- Lindsey v. South Carolina Tax Commission, 323 S.C. 57, 448 S.E.2d 577, 578 (S.C. App. 1994)
- Cincinnati Ins. Co. v. South Carolina Second Injury Fund, 297 S.C. 372, 377 S.E.2d 130, 131 (S.C. App. 1989)
- Board of Adjustments of City of Richmond v. Flood, 581 S.W.2d 1, 2 (Ky. 1978)
- Metro Medical Imaging, LLC v. Commonwealth, 173 S.W.3d 916, 917 (Ky. App. 2005)
- Kentucky Unemployment Ins. Commission v. Providian Agency Group, Inc., 981 S.W.2d 138, 139 (Ky. App. 1998)