

COLORADO COURT OF APPEALS

McLaughlin v. Levine

727 P.2d 410 (Colo. App. 1986) · Decided September 4, 1986

SUMMARY

The Colorado Court of Appeals affirmed the Colorado State Personnel Board’s decision upholding the dismissal of a certified state employee for substandard performance and related misconduct. The court rejected the employee’s due process and notice arguments, holding that the dismissal letter incorporated the relevant grounds, prior misconduct could be considered in determining discipline, and the employee received adequate notice of the matters to be addressed. The court therefore affirmed the order dismissing the employee.

CASE DETAILS

COURT	Colorado Court of Appeals
WRITING FOR THE COURT	Van Cise; Kelly; Metzger
JURISDICTION	Colorado
DECIDED	September 4, 1986
DISPOSITION	affirmed
PROCEDURAL POSTURE	Employee appealed the Colorado State Personnel Board's order affirming a hearing officer's decision dismissing him from his certified Colorado civil service position.
STANDARD OF REVIEW	The court reviewed whether the record supported the hearing officer's and board's decisions and stated that supported decisions would not be overturned on appeal.
PRECEDENTIAL VALUE	Published opinion; precedential value under the Colorado Court of Appeals' published-opinion practice.
PARTIES	Jack McLaughlin v. Alan Levine, Colorado State Personnel Board, Colorado Department of Administration

TOPICS

- employment law
- administrative law
- procedural due process
- judicial review of agency action

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether McLaughlin was denied due process because the hearing officer and board relied on information allegedly not contained in the dismissal letter.
2. Whether McLaughlin was improperly terminated because the findings relied on conduct that had been the subject of prior corrective actions.
3. Whether the April 27 notice adequately informed McLaughlin that matters beyond the building computer and thermostats could be considered at the Rule 7-3-1 meeting.

HOLDINGS

1. McLaughlin was not denied due process because the hearing officer incorporated the April 30 dismissal letter by reference and adopted the grounds stated in that letter as the basis for dismissal.
2. Prior conduct may be considered in determining the penalty when disciplinary action is otherwise warranted.
3. The April 27 notice provided adequate notice because it referred to the incidents underlying the August corrective action and stated that the supervisor would determine the final disposition of that corrective action.

KEY QUOTATIONS

“The decision to administer corrective or disciplinary action shall be governed by the nature, extent, seriousness and effect of the act, error, or omission committed; the type and frequency of previous undesirable behavior; the period of time that has elapsed since a prior offensive act; any mitigating circumstances; and the necessity of impartiality in relations with employees.” (727 P.2d at 412)

FACTUAL BACKGROUND

McLaughlin served as director of the Capitol Complex Division from 1977 until his dismissal in 1982. Audits and Colorado Bureau of Investigation reports identified repeated management deficiencies, including falsified inventory reports, improper handling of state property, inadequate controls, and continuing substandard performance despite multiple corrective-action notices. After a further Rule 7-3-1 meeting addressing operational problems, including a malfunctioning energy-saving computer, unpaid service bills, and thermostat settings, the Department dismissed him.

PROCEDURAL HISTORY

The Department of Administration dismissed McLaughlin after a Rule 7-3-1 meeting concerning continuing substandard performance and related operational problems. A hearing officer upheld the dismissal, and the State Personnel Board affirmed. McLaughlin sought review in the Colorado Court of Appeals, which affirmed the board's order.

DISPOSITION

affirmed

CASES CITED

- Department of Administration v. State Personnel Board, 703 P.2d 595 (Colo. App. 1985)
- Mitchell v. Charnes, 656 P.2d 719 (Colo. App. 1982)

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