

SUPREME COURT OF ARIZONA

Cheatham v. DiCiccio

240 Ariz. 314 (2016) · No. CV-15-0287-PR · Decided September 13, 2016

SUMMARY

The Arizona Supreme Court considered whether paid release-time provisions in collective bargaining agreements between the City of Phoenix and the Phoenix Law Enforcement Association violated the Gift Clause of the Arizona Constitution. The Court held that the provisions served a public purpose and were not grossly disproportionate to the consideration received by the City when viewed in the context of the entire collective bargaining agreement. The Court reversed the trial court and vacated the court of appeals' opinion.

CASE DETAILS

COURT	Supreme Court of Arizona
WRITING FOR THE COURT	Chief Justice Bales; Vice Chief Justice Pelander; Judge Joseph W. Howard
JURISDICTION	Arizona
DECIDED	September 13, 2016
DOCKET	CV-15-0287-PR
DISPOSITION	reversed
PROCEDURAL POSTURE	Taxpayers challenged release-time provisions in collective bargaining agreements between the City of Phoenix and the Phoenix Law Enforcement Association under the Gift Clause of the Arizona Constitution. After a bench trial, the superior court entered a permanent injunction. The court of appeals affirmed in part, and the Arizona Supreme Court granted review.
STANDARD OF REVIEW	Grant of an injunction reviewed for abuse of discretion; interpretation and application of constitutional provisions reviewed de novo.
PRECEDENTIAL VALUE	Published and precedential Arizona Supreme Court opinion
PARTIES	Sal DiCiccio in his official capacity as a member of the Phoenix City Council, City of Phoenix, Phoenix Law Enforcement Association, Thomas Cox, Victor Escoto, Richard V. Hartson, Vivian Reque, David K. Wilson v. William R. Cheatham, Marcus Huey

TOPICS

constitutional law municipal law labor law employment contracts

PRACTICE AREAS

constitutional law labor law municipal law public-sector employment

QUESTIONS PRESENTED

1. Whether release-time provisions in the City's collective bargaining agreement with PLEA violate the Gift Clause of article 9, section 7 of the Arizona Constitution.
2. Whether the release-time provisions serve a public purpose.
3. Whether the consideration received by the City under the MOU is grossly disproportionate to the City's payments for release time.
4. Whether the MOU and applicable Phoenix City Code require the court to evaluate the release-time provisions as part of the entire collective bargaining agreement rather than in isolation.

HOLDINGS

1. Payments made under a collective bargaining agreement for officers' release time remain subject to Gift Clause scrutiny; inclusion in a compensation package does not automatically exempt the provisions from constitutional review.
2. A government expenditure complies with the Gift Clause if it serves a public purpose and the consideration received by the government is not grossly disproportionate to the amount paid to the private entity.
3. The MOU, including its release-time provisions, serves a public purpose because it establishes the employment terms for Unit 4 police officers, recognizes PLEA as their authorized representative, facilitates labor-management relations, and helps the City obtain police services.
4. The City's approximately \$1.7 million in release-time payments was not grossly disproportionate to the consideration provided under the MOU by PLEA and the Unit 4 officers.
5. A Gift Clause challenge to release-time provisions in a collective bargaining agreement must be evaluated in light of the entire MOU and governing City Code, not by isolating the release-time payments or considering only PLEA's direct obligations.

KEY QUOTATIONS

"We hold that the release time provisions at issue here do not violate the Gift Clause." (240 Ariz. at 317, ¶ 1)

"The expenditure will be upheld if (1) it has a public purpose, and (2) the consideration received by the government is not "grossly disproportionate" to the amounts paid to the private entity." (240 Ariz. at 318, ¶ 10)

"Because the challenged release time provisions do not violate the Gift Clause, we reverse the trial court's judgment and entry of a permanent injunction and vacate the opinion of the court of appeals." (240 Ariz. at

FACTUAL BACKGROUND

Phoenix police officers in Unit 4 are represented by the Phoenix Law Enforcement Association under the City's Meet and Confer Ordinance. The City's collective bargaining agreements with PLEA included release-time provisions allowing designated officers to remain on City payroll while performing union-related activities, including grievance representation, labor-management work, committee service, and legislative activity. The 2012-2014 MOU allocated approximately \$1.7 million over two years for release-time provisions as part of the overall compensation package for Unit 4 officers.

PROCEDURAL HISTORY

Cheatham and Huey sued the City in 2011, challenging release-time provisions in the 2010-2012 Memorandum of Understanding. The superior court issued a preliminary injunction, and the taxpayers later amended their complaint to challenge similar provisions in the 2012-2014 MOU. After trial, the superior court found the provisions violated the Gift Clause and permanently enjoined their use. The court of appeals affirmed the injunction to the extent it barred the challenged provisions and future release-time agreements lacking binding obligations by PLEA. The Arizona Supreme Court reversed the superior court and vacated the court of appeals' opinion.

DISPOSITION

reversed

CASES CITED

- Valley Med. Specialists v. Farber, 194 Ariz. 363, 366 ¶ 9, 982 P.2d 1277, 1280 (1999)
- Ross v. Bennett, 228 Ariz. 174, 176 ¶ 6, 265 P.3d 356, 358 (2011)
- Kromko v. Ariz. Bd. of Regents, 149 Ariz. 319, 320-21, 718 P.2d 478, 479-80 (1986)
- Wistuber v. Paradise Valley Unified Sch. Dist., 141 Ariz. 346, 349-50, 687 P.2d 354, 357-58 (1984)
- Turken v. Gordon, 223 Ariz. 342, 345-52, 224 P.3d 158, 161-68 (2010)
- City of Glendale v. White, 67 Ariz. 231, 240, 194 P.2d 435, 441 (1948)
- Humphrey v. City of Phoenix, 55 Ariz. 374, 387, 102 P.2d 82, 87 (1940)
- NLRB v. BASF Wyandotte Corp., 798 F.2d 849, 852-53 (5th Cir. 1986)
- Axelson, Inc. v. NLRB, 599 F.2d 91, 95 (5th Cir. 1979)
- Int'l Ass'n of Machinists & Aerospace Workers v. BF Goodrich Aerospace Aerostructures Grp., 387 F.3d 1046, 1055-58 (9th Cir. 2004)
- Taylor v. State Farm Mut. Auto. Ins. Co., 175 Ariz. 148, 153, 854 P.2d 1134, 1139 (1993)
- State v. Nw. Mut. Ins. Co., 86 Ariz. 50, 54, 340 P.2d 200, 202 (1959)
- Consol. Rail Corp. v. Ry. Labor Execs.' Ass'n, 491 U.S. 299, 312 (1989)
- Ariz. Laborers, Teamsters & Cement Masons Local 395 Health & Welfare Trust Fund v. Hatco, Inc., 142 Ariz. 364, 367, 690 P.2d 83, 86 (App. 1984)

- Vaca v. Sipes, 386 U.S. 171, 195 (1967)
- Cheatham v. DiCiccio, 238 Ariz. 69, 356 P.3d 814 (App. 2015)

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