

SUPREME COURT OF WASHINGTON

In re the Recall of Young

152 Wash. 2d 848 (2004) · Decided November 12, 2004

SUMMARY

The Washington Supreme Court reviewed whether recall petitions against two Marysville School Board members stated legally sufficient charges. The court held that allegations that the board members knowingly and willfully violated a collective bargaining agreement, causing substantial financial harm, could constitute misfeasance or malfeasance and a violation of the oath of office. The superior court’s decision allowing the petitions to proceed to the signature-gathering phase was affirmed.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Alexander, C.J.; Johnson, J.; Madsen, J.; Sanders, J.; Ireland, J.; Bridge, J.; Chambers, J.; Owens, J.; Fairhurst, J.
JURISDICTION	Washington
DECIDED	November 12, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Two Marysville School Board members sought direct review of the Snohomish County Superior Court's determination that one recall charge against each member was legally sufficient to proceed to the signature-gathering phase.
STANDARD OF REVIEW	The Supreme Court reviews recall petitions using the same criteria as the superior court and determines whether the charges are factually and legally sufficient. It does not evaluate the truthfulness of the charges at the sufficiency stage.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential.
PARTIES	Ronald Young, Helen Mount v. Recall petitioners, Snohomish County prosecuting attorney

TOPICS

- recall elections
- election law
- collective bargaining
- appellate procedure
- standard of review

PRACTICE AREAS

election law

municipal law

labor law

appellate procedure

QUESTIONS PRESENTED

1. Whether the recall charges alleging that Young and Mount knowingly and willfully violated a collective bargaining agreement, causing substantial unnecessary financial harm, were legally sufficient under Washington's recall statute.
2. Whether the recall charges stated conduct amounting to misfeasance, malfeasance, or violation of the oath of office rather than merely an exercise of lawful official discretion.

HOLDINGS

1. A recall petition is legally sufficient when it states with specificity substantial conduct clearly amounting to misfeasance, malfeasance, or violation of the oath of office. Allegations that elected school-board members knowingly and willfully violated a collective bargaining agreement and thereby unnecessarily caused substantial financial harm may satisfy that requirement.
2. At the recall-petition sufficiency stage, courts perform a gateway function by determining factual and legal sufficiency but do not determine whether the allegations are true.

KEY QUOTATIONS

“Although the courts serve a gateway function in the recall process, we do not attempt to evaluate the truthfulness of the charges in a petition.” (152 Wash. 2d at 852)

“To be legally sufficient, the petition must state with specificity substantial conduct clearly amounting to misfeasance, malfeasance or violation of the oath of office.” (152 Wash. 2d at 852)

“We agree with that court that if an elective public officer knowingly and willingly breaks a collective bargaining agreement and thereby unnecessarily causes substantial financial harm, this may be considered an improper act and a violation of oath.” (152 Wash. 2d at 853)

FACTUAL BACKGROUND

The Marysville School Board and the Marysville Education Association had a collective bargaining agreement establishing January 14, 2003, as a school day and June 16, 2003, as the beginning of makeup days. After the Board declared January 14 a nonschool day so teachers could attend a rally, it later designated February 14 as the makeup day, withheld pay from teachers who did not report, and incurred approximately \$74,457.30 in related costs. An arbitrator ruled that the Board violated the collective bargaining agreement, after which district voters filed recall petitions alleging that Young and Mount knowingly and willfully violated contractual rights and their oaths of office.

PROCEDURAL HISTORY

Three school-district voters filed separate recall petitions against Young and Mount alleging multiple charges arising from the Board's handling of a school-calendar makeup day and related wage deductions. The superior

court rejected all but one charge against each official and held the remaining charge legally sufficient. Young and Mount sought direct review, and the Supreme Court of Washington consolidated the proceedings and affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Recall of Wade, 115 Wn.2d 544, 547, 799 P.2d 1179 (1990)
- Cole v. Webster, 103 Wn.2d 280, 288, 692 P.2d 799 (1984)
- In re Recall of Kast, 144 Wn.2d 807, 813, 31 P.3d 677 (2001)
- In re Recall of Beasley, 128 Wn.2d 419, 427, 908 P.2d 878 (1996)
- Chandler v. Otto, 103 Wn.2d 268, 274, 693 P.2d 71 (1984)
- Teaforde v. Howard, 104 Wn.2d 580, 585, 707 P.2d 1327 (1985)