

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION

David Hieber v. Oakland County, et al.

Hieber · No. 22-11417 · Decided March 11, 2026

SUMMARY

The court denies David Hieber’s motion for summary judgment on his pretermination procedural due process claim under *Cleveland Board of Education v. Loudermill*. The court holds that genuine issues of material fact remain regarding whether Oakland County provided Hieber a meaningful opportunity to respond and whether the outcome of his pretermination hearing was predetermined. The court also rejects defendants’ arguments that the motion was untimely or that Hieber waived the predetermination claim.

CASE DETAILS

COURT	United States District Court for the Eastern District of Michigan, Southern Division
WRITING FOR THE COURT	F. Kay Behm
JURISDICTION	United States District Court for the Eastern District of Michigan, Southern Division
DECIDED	March 11, 2026
DOCKET	22-11417
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for summary judgment on his remaining pretermination procedural due process claim after the Sixth Circuit affirmed summary judgment for defendants on all other claims and remanded or otherwise left the due process claim for further proceedings.
STANDARD OF REVIEW	Summary judgment is appropriate when the movant shows that there is no genuine dispute as to any material fact and that the movant is entitled to judgment as a matter of law. The evidence and reasonable inferences are viewed in the light most favorable to the nonmoving party, and the court determines whether a reasonable jury could return a verdict for that party.
PRECEDENTIAL VALUE	unpublished

PARTIES

David Hieber v. Oakland County, et al.

TOPICS

summary judgment

procedural due process

due process

civil procedure

section 1983

PRACTICE AREAS

civil rights

constitutional law

employment law

civil procedure

QUESTIONS PRESENTED

1. Whether genuine issues of material fact existed as to whether Oakland County's pretermination Loudermill process was a sham because the termination decision was predetermined.
2. Whether Hieber was entitled to summary judgment on his pretermination procedural due process claim.
3. Whether Hieber's summary-judgment motion was untimely under the governing scheduling order.
4. Whether Hieber waived his predetermination theory by not raising it in the earlier summary-judgment briefing or on appeal.

HOLDINGS

1. A pretermination hearing with a predetermined outcome does not satisfy procedural due process, but the evidence here presented a genuine issue of material fact as to whether the outcome was predetermined.
2. Hieber was not entitled to summary judgment because a reasonable jury could find for defendants on whether the pretermination process provided a meaningful opportunity to respond and whether the outcome was predetermined.
3. The motion was timely because the court's June 23, 2025 scheduling order set July 31, 2025 as the motions deadline, and Hieber filed on that date.
4. Hieber did not waive the predetermination claim by failing to raise it in the earlier summary-judgment briefing or on appeal, and he could raise it in the later court-authorized summary-judgment motion.

KEY QUOTATIONS

"A "sham" proceeding in which the outcome of the hearing is predetermined does not meet the requirements of a pre-termination hearing and does not afford due process." (III.B)

"Thus, a predetermined outcome interferes with the employee's meaningful opportunity to respond to the evidence against him and any meaningful opportunity to prevent the deprivation from occurring." (III.B)

"Like the Court of Appeals, the court here finds a genuine issue of material fact as to whether Plaintiff had a meaningful opportunity to present his side of the story at the investigative interview and thus a jury must decide if the outcome of the pretermination hearing was predetermined." (III.B)

FACTUAL BACKGROUND

Hieber was a longtime Oakland County employee whose position was governed by merit-system rules providing that dismissal could occur only for cause. After a subordinate filed a grievance concerning Hieber's workplace conduct and comments about a county culture survey, the County investigated and placed Hieber on paid administrative leave. Hieber participated in an investigatory interview and later a formal Loudermill hearing, but County personnel told him that the formal hearing was primarily to inform him of the proposed termination and that he could challenge the decision later before a Personnel Appeal Board. The hearing officer upheld the proposed termination shortly after the hearing, and Hieber argued that this demonstrated a predetermined outcome.

PROCEDURAL HISTORY

Hieber originally asserted age-discrimination, pre- and post-termination due-process, First Amendment retaliation, and defamation claims. This court granted defendants summary judgment in full. The Sixth Circuit affirmed as to all claims except the pretermination procedural due process claim, finding genuine issues of material fact concerning whether Hieber received adequate notice and a meaningful opportunity to respond. Hieber then moved for summary judgment, arguing that the Loudermill hearing's outcome was predetermined; the district court denied the motion and rejected defendants' arguments that the motion was untimely or that the claim had been waived.

DISPOSITION

other

CASES CITED

- State Farm Fire & Casualty Co. v. McGowan, 421 F.3d 433, 436 (6th Cir. 2005)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 251-52 (1986)
- Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986)
- Brown v. Scott, 329 F. Supp. 2d 905, 910 (6th Cir. 2004)
- McLean v. 988011 Ontario, Ltd., 224 F.3d 797, 800 (6th Cir. 2000)
- Farhat v. Jopke, 370 F.3d 580, 595-96 (6th Cir. 2004)
- Duchesne v. Williams, 849 F.2d 1004, 1006-07 (6th Cir. 1988)
- Cleveland Board of Education v. Loudermill, 470 U.S. 532, 545-46 (1985)
- Buckner v. City of Highland Park, 901 F.2d 491, 494-95 (6th Cir. 1990)
- Ross v. City of Memphis, 394 F. Supp. 2d 1024, 1038-39 (W.D. Tenn. 2005)
- Wagner v. City of Memphis, 971 F. Supp. 308, 318-19 (W.D. Tenn. 1997)
- Vanderwalker v. King County, 91 F. App'x 545, 546 (9th Cir. 2004)
- Palma v. Johns, 27 F.4th 419, 430 & n.1 (6th Cir. 2022)
- Barnes v. Felix, 605 U.S. 73, 83 (2025)
- Booth v. Lazzara, 164 F.4th 581, 593 (6th Cir. 2026)
- Doughty v. Department of Developmental Services STS, 607 F. App'x 97, 98 (2d Cir. 2015)

- United States v. Litwok, 678 F.3d 208, 216 (2d Cir. 2012)
- Johnson v. Ford Motor Co., 13 F.4th 493, 503 (6th Cir. 2021)
- Frazier v. Jenkins, 770 F.3d 485, 497 (6th Cir. 2014)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/united-states-district-court-for-the-eastern-district-of-michigan-southern-division-united-states-di/2026/david-hieber-v-oakland-county-et-al-j4e05lo0>