

SUPREME COURT OF CONNECTICUT

State v. New England Health Care Employees Union, 271 Conn. 127

855 A.2d 964 (2004) · No. No. 17044 · Decided September 14, 2004

SUMMARY

The Supreme Court of Connecticut affirmed an order confirming an arbitration award that reinstated a state employee who had been found to have abused a client at a Department of Mental Retardation facility. The court held that reinstatement with a thirty-day suspension did not violate the clear public policy protecting department clients from mistreatment, and it rejected the state's procedural and motion-to-open claims.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Sullivan, C.J.; Borden, J.; Katz, J.; Vertefeuille, J.; Zarella, J.
JURISDICTION	Connecticut
DECIDED	September 14, 2004
DOCKET	No. 17044
DISPOSITION	affirmed
PROCEDURAL POSTURE	The state appealed from a trial court judgment confirming an arbitration award that ordered the reinstatement of a state employee. The appeal was transferred from the Appellate Court to the Supreme Court of Connecticut.
STANDARD OF REVIEW	A colorable public-policy challenge to a voluntary arbitration award rendered pursuant to an unrestricted submission is reviewed de novo. The trial court's ruling on a motion to open or set aside a civil judgment is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	State of Connecticut v. New England Health Care Employees Union, District 1199, AFL-CIO

TOPICS

employment arbitration collective bargaining labor law appellate procedure standard of review

PRACTICE AREAS

employment law labor law arbitration appellate procedure

QUESTIONS PRESENTED

1. Whether reinstatement of an employee who deliberately shoved a department client and caused a minor injury violated the explicit, well-defined, and dominant public policy protecting persons in the department's custody from mistreatment.
2. Whether the trial court improperly confirmed the arbitration award before separately ruling on the state's application to vacate the award.
3. Whether the trial court abused its discretion by denying the state's motion to open the judgment and for reargument.

HOLDINGS

1. Reinstatement of Howell did not violate the public policy protecting persons in the Department of Mental Retardation's custody from mistreatment. A single instance of deliberate conduct causing an inadvertent or minor injury does not make termination per se necessary; an arbitrator may consider the employee's length of service, prior harmful conduct, and the circumstances and severity of the misconduct in determining whether lesser discipline is sufficient.
2. The trial court did not err by confirming the arbitration award before issuing a separate ruling on the application to vacate, where the court later expressly explained that confirmation was premised on rejection of the motion to vacate.
3. The trial court did not abuse its discretion in denying the state's motion to open the judgment and for reargument.

KEY QUOTATIONS

“when a challenge to a voluntary arbitration award rendered pursuant to an unrestricted submission raises a legitimate and colorable claim of violation of public policy, the question of whether the award violates public policy requires de novo judicial review.” (271 Conn. 135)

“Rather, an arbitrator reasonably may consider circumstances such as the length of employment, previous instances of harmful conduct by the employee, and the circumstances and severity of the misconduct under review in determining the likelihood of future misconduct and whether discipline less severe than termination would constitute a sufficient punishment and deterrent.” (271 Conn. 138-139)

FACTUAL BACKGROUND

Howell had worked for eighteen years at the Southbury training school, a residential facility for persons with intellectual disabilities, in a position involving direct responsibility for client care and custody. During an August 9, 1999 altercation with a blind and mentally retarded client, Howell deliberately pushed the client into a reclining chair, causing a minor laceration. The arbitrator found Howell culpable of client abuse but determined

that the state lacked just cause to terminate him, given the circumstances of the incident, Howell's prior employment history, and the discipline imposed in comparable arbitration cases.

PROCEDURAL HISTORY

James Howell, a Department of Mental Retardation employee, was terminated after an incident in which he deliberately shoved a client into a chair, causing a minor injury. The union challenged the termination through arbitration, and the arbitrator ordered reinstatement with lost pay and benefits subject to a thirty-day suspension. The state sought to vacate the award on public-policy grounds, while the union sought confirmation. The trial court confirmed the award and effectively denied the motion to vacate; it later denied the state's motion to open and for reargument. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- American Universal Ins. Co. v. DelGreco, 205 Conn. 178, 530 A.2d 171 (1987)
- Hartford v. Board of Mediation & Arbitration, 211 Conn. 7, 557 A.2d 1236 (1989)
- New Haven v. AFSCME, Council 15, Local 530, 208 Conn. 411, 544 A.2d 186 (1988)
- Garrity v. McCaskey, 223 Conn. 1, 612 A.2d 742 (1992)
- Metropolitan District Commission v. AFSCME, Council 4, Local 184, 237 Conn. 114, 676 A.2d 825 (1996)
- Groton v. United Steelworkers of America, 254 Conn. 35, 757 A.2d 501 (2000)
- South Windsor v. South Windsor Police Union Local 1480, Council 15, AFSCME, AFL-CIO, 255 Conn. 800, 770 A.2d 14 (2001)
- Watertown Police Union Local 541 v. Watertown, 210 Conn. 333, 555 A.2d 406 (1989)
- United Paperworkers International Union, AFL-CIO v. Misco, Inc., 484 U.S. 29 (1987)
- W.R. Grace & Co. v. Rubber Workers, 461 U.S. 757 (1983)
- Stamford v. Stamford Police Assn., 14 Conn. App. 257, 540 A.2d 400 (1988)
- Board of Trustees v. Federation of Technical College Teachers, 179 Conn. 184, 425 A.2d 1247 (1979)
- Six v. Thomas O'Connor & Co., 235 Conn. 790, 669 A.2d 1214 (1996)
- United States Postal Service v. American Postal Workers Union, AFL-CIO, 736 F.2d 822 (1st Cir. 1984)
- Board of Education v. Local 566, Council 4, AFSCME, 43 Conn. App. 499, 683 A.2d 1036 (1996)
- Exxon Shipping Co. v. Exxon Seamen's Union, 993 F.2d 357 (3d Cir. 1993)
- Iowa Electric Light & Power Co. v. Local Union 204 of the International Brotherhood of Electrical Workers, AFL-CIO, 834 F.2d 1424 (8th Cir. 1987)
- Newsday, Inc. v. Long Island Typographical Union, No. 915, CWA, AFL-CIO, 915 F.2d 840 (2d Cir. 1990)
- International Brotherhood of Police Officers, Local 361 v. New Milford, 81 Conn. App. 726, 841 A.2d 706 (2004)
- Aetna Life & Casualty Co. v. Bulaong, 218 Conn. 51, 588 A.2d 138 (1991)

- State v. AFSCME, Council 4, Local 387, AFL-CIO, 252 Conn. 467, 747 A.2d 480 (2000)
- Gillis v. Gillis, 214 Conn. 336, 572 A.2d 323 (1990)

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