

MASSACHUSETTS SUPREME JUDICIAL COURT

Brittle v. City of Boston

439 Mass. 580 (2003) · Decided June 20, 2003

SUMMARY

The Massachusetts Supreme Judicial Court held that a suspended Boston police officer was not entitled to back pay under G. L. c. 268A, § 25, where related Federal criminal proceedings ended in his guilty plea. The court interpreted “criminal proceedings” to include the related Federal indictments, not merely the State indictments that initially triggered the suspension. The court affirmed the Superior Court’s summary judgment for the City of Boston.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Marshall, C.J.; Cowin; Marshall
JURISDICTION	Massachusetts
DECIDED	June 20, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Brittle appealed the Superior Court's allowance of the City's motion for summary judgment denying his claim for back pay during a suspension without pay. The Appeals Court reversed in part, and the Supreme Judicial Court granted further appellate review.
STANDARD OF REVIEW	Summary judgment is reviewed de novo; statutory interpretation is a question of law.
PRECEDENTIAL VALUE	Published, precedential opinion of the Massachusetts Supreme Judicial Court
PARTIES	Wilbur Brittle v. City of Boston

TOPICS

- statutory interpretation
- legislative intent
- employment law
- municipal law
- administrative law

PRACTICE AREAS

- employment law
- municipal law
- administrative law

QUESTIONS PRESENTED

1. Whether G. L. c. 268A, § 25, entitled Brittle to back pay for the period of his suspension after the State indictments were nol prossed but related Federal indictments remained pending.
2. Whether the phrase "criminal proceedings" in G. L. c. 268A, § 25, encompasses related criminal proceedings brought by different prosecuting authorities.
3. Whether *Madden v. Secretary of Public Safety* controlled the entitlement to compensation where the State charges were terminated but related Federal charges remained pending.

HOLDINGS

1. Brittle was not entitled to back pay because the criminal proceedings against him did not terminate without a finding or verdict of guilty. The related Federal proceedings remained pending throughout the suspension and ended in his guilty plea.
2. Where indictments brought by State and Federal authorities arise from closely related criminal conduct, "criminal proceedings" is not limited to the proceedings concerning the initial State indictment; the related Federal proceedings are included in determining whether the employee is entitled to back pay.
3. Madden did not require an award of back pay because it involved unrelated later Federal indictments brought after all State criminal proceedings had terminated, whereas Brittle's related Federal indictments were pending when the State charges were nol prossed.

KEY QUOTATIONS

"By its express terms, the statute contemplates that payment for a period of suspension shall occur if, and only when, the employee is entitled to removal of his suspension." (439 Mass. at 584)

"Criminal proceedings" against him did not terminate until he pleaded guilty to the Federal indictments on November 5, 1997, and those proceedings terminated in a "finding or verdict of guilty." (439 Mass. at 585)

"To grant Brittle the relief he seeks would provide a perverse incentive to prosecutors to pursue a less weighty State claim and possibly jeopardize a far more serious Federal case, or vice versa, in order to avoid the distasteful obligation of back pay to a subsequently convicted public employee." (439 Mass. at 588)

FACTUAL BACKGROUND

Wilbur Brittle, a suspended Boston police officer, participated in an international heroin-smuggling conspiracy and had a violent dispute with Láveme Cotton concerning payment for a heroin delivery. That dispute led to State indictments for stalking and threatening to commit assault and battery, and Brittle was suspended without pay. While the State charges were pending, Federal authorities indicted Brittle and others on related heroin-smuggling charges; the State charges were later nol prossed so Cotton could testify in the Federal case. Brittle ultimately pleaded guilty to the Federal charges and resigned from the police department without seeking reinstatement or back pay during the suspension.

PROCEDURAL HISTORY

Brittle was suspended from his Boston police duties after State indictments arising from conduct involving a drug-smuggling associate. The State indictments were later nol prossed while related Federal drug indictments were pending. After Brittle pleaded guilty to the Federal charges and resigned, he sued under G. L. c. 268A, § 25, seeking compensation for the suspension period. The Superior Court granted summary judgment to Boston; the Appeals Court awarded back pay for part of the period; the Supreme Judicial Court affirmed the Superior Court judgment.

DISPOSITION

affirmed

CASES CITED

- *Madden v. Secretary of Public Safety*, 412 Mass. 1010 (1992)
- *Tilton v. Haverhill*, 311 Mass. 572, 577 (1942)
- *Commonwealth v. Welosky*, 276 Mass. 398, 401 (1931), cert. denied, 284 U.S. 684 (1932)
- *Commonwealth v. Williams*, 427 Mass. 59, 62 (1998)
- *Commonwealth v. A Juvenile*, 16 Mass. App. Ct. 251, 254 (1983)
- *Springfield v. Director of the Division of Employment Security*, 398 Mass. 786, 788-789 (1986)
- *Massachusetts Bay Transportation Authority v. Massachusetts Bay Transportation Authority Retirement Board*, 397 Mass. 734, 739 (1986)
- *Sterilite Corp. v. Continental Casualty Co.*, 397 Mass. 837, 839 n.3 (1986)
- *International Organization of Masters v. Woods Hole, Martha's Vineyard & Nantucket Steamship Authority*, 392 Mass. 811, 813 (1984)
- *Bessette v. Commissioner of Public Works*, 348 Mass. 605, 608 (1965)
- *Yetman v. Cambridge*, 7 Mass. App. Ct. 700, 708-709 (1979)
- *Commonwealth v. Kwiatkowski*, 418 Mass. 543, 546-547 (1994)
- *Commonwealth v. McCarthy*, 385 Mass. 160, 163 (1982)