

SUPREME COURT OF COLORADO

Churchill v. University of Colorado at Boulder, 2012 CO 54

285 P.3d 986 (Colo. 2012) · Decided September 10, 2012

SUMMARY

The Colorado Supreme Court reviewed claims brought under 42 U.S.C. § 1983 by Professor Ward Churchill after the University of Colorado terminated his tenured employment. The court held that the Board of Regents' termination decision was a quasi-judicial action protected by absolute immunity, that reinstatement and front pay were unavailable or inappropriate, and that Churchill's claim concerning the allegedly retaliatory investigation was barred by qualified immunity. The court remanded for further proceedings consistent with its opinion.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Chief Justice Bender; Justice Eid; Justice Marquez
JURISDICTION	Colorado
DECIDED	September 10, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Churchill brought a 42 U.S.C. § 1983 action alleging that the University of Colorado Board of Regents investigated his scholarship and terminated his tenured employment in retaliation for protected speech. After a jury found that his protected speech was a motivating factor in his termination but awarded only nominal damages, the trial court vacated the verdict based on quasi-judicial absolute immunity, denied reinstatement and front pay, and directed a verdict on the investigation claim. The Colorado Court of Appeals affirmed, and the Colorado Supreme Court granted certiorari.
STANDARD OF REVIEW	Judgment as a matter of law and statutory interpretation are reviewed de novo. Denial of reinstatement and front pay is reviewed for abuse of discretion; the trial court's decision is disturbed only if manifestly arbitrary, unreasonable, or unfair.
PRECEDENTIAL VALUE	published
PARTIES	Ward Churchill v. University of Colorado at Boulder

TOPICS

section 1983 free speech qualified immunity appellate procedure equitable relief

PRACTICE AREAS

constitutional law civil rights employment law remedies appellate procedure

QUESTIONS PRESENTED

1. Whether the Board of Regents' decision to terminate Churchill's tenured employment was a quasi-judicial act protected by absolute immunity from damages under 42 U.S.C. § 1983.
2. Whether the trial court abused its discretion in denying Churchill reinstatement and front pay.
3. Whether qualified immunity barred Churchill's § 1983 claim based on the allegedly retaliatory investigation of his academic work because the asserted right was not clearly established.

HOLDINGS

1. The Regents' decision to terminate Churchill's tenured employment was functionally comparable to a judicial action and therefore was protected by quasi-judicial absolute immunity from Churchill's § 1983 damages claim.
2. The trial court did not abuse its discretion in denying reinstatement and front pay.
3. Qualified immunity barred Churchill's claim based on the Regents' initiation of an investigation into his academic record because the asserted right was not clearly established.

KEY QUOTATIONS

"We affirm, albeit on slightly different grounds." (986)

"First, we hold that the Regents' decision to terminate Churchill's employment was a quasi-judicial action functionally comparable to a judicial process." (986)

"Second, we hold that the trial court did not abuse its discretion when it ruled that Churchill was not entitled to the equitable remedies of reinstatement and front pay." (986)

"Third, we hold that Churchill's bad faith investigation claim is barred by qualified immunity because the Regents' investigation into Churchill's academic record does not implicate a clearly established statutory or constitutional right or law." (986)

"Given the uncertainty inherent in this body of federal case law as to whether an allegedly retaliatory employment investigation is actionable under Section 1983, we conclude that a reasonable public official would not know that the initiation of an employment investigation in response to protected speech would be unlawful." (1011)

FACTUAL BACKGROUND

Ward Churchill was a tenured University of Colorado professor whose controversial essay about the September 11 attacks generated national publicity. After the Regents authorized an inquiry, university committees

investigated allegations of academic misconduct and ultimately recommended termination following procedures that included counsel, evidence, cross-examination, written findings, and a clear-and-convincing-evidence standard. The Regents terminated Churchill's employment after finding serious, repeated, and deliberate academic misconduct. During the investigation Churchill retained his pay, benefits, tenure, teaching duties, and ability to speak publicly.

PROCEDURAL HISTORY

The trial court entered a directed verdict for the University on Churchill's bad-faith investigation claim, later vacated the jury's termination verdict based on quasi-judicial absolute immunity, and denied equitable relief. The court of appeals affirmed all three rulings. The Colorado Supreme Court affirmed, although it relied on qualified immunity rather than the lower courts' adverse-employment-action rationale for the investigation claim.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case was remanded to the court of appeals for return to the trial court for further proceedings consistent with the opinion.

CASES CITED

- Aspen Wilderness Workshop, Inc. v. Colorado Water Conservation Board, 901 P.2d 1251 (Colo. 1995)
- Kentucky v. Graham, 473 U.S. 159 (1985)
- Mt. Healthy City School District Board of Education v. Doyle, 429 U.S. 274 (1977)
- Butz v. Economou, 438 U.S. 478 (1978)
- Cleavinger v. Saxner, 474 U.S. 193 (1985)
- Forrester v. White, 484 U.S. 219 (1988)
- Pulliam v. Allen, 466 U.S. 522 (1984)
- Montero v. Travis, 171 F.3d 757 (2d Cir. 1999)
- Roth v. King, 449 F.3d 1272 (D.C. Cir. 2006)
- Simmons v. Fabian, 743 N.W.2d 281 (Minn. Ct. App. 2007)
- Bingman v. Natkin & Co., 937 F.2d 553 (10th Cir. 1991)
- Freedom Colorado Information, Inc. v. El Paso County Sheriff's Department, 196 P.3d 892 (Colo. 2008)
- Pearson v. Callahan, 555 U.S. 223 (2009)
- Saucier v. Katz, 533 U.S. 194 (2001)
- Smith v. Fruin, 28 F.3d 646 (7th Cir. 1994)
- Couch v. Board of Trustees of Memorial Hospital of Carbon County, 587 F.3d 1223 (10th Cir. 2009)
- Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)
- Regents of the University of California v. Bakke, 438 U.S. 265 (1978)

