

SUPREME COURT OF MISSISSIPPI

The Public Employees' Retirement System v. John P. Freeman

PERS v. Freeman · No. No. 2002-CA-01942-SCT · Decided July 29, 2002

SUMMARY

The Mississippi Supreme Court held that the circuit court exceeded the scope of its mandate by awarding interest on reinstated disability benefits. The court also held that Freeman’s claim for interest was procedurally barred because he had not raised it before the Public Employees’ Retirement System or the lower court. The judgment was reversed and rendered to the extent it awarded interest.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Smith, Presiding Justice; Smith, P.J.; Pittman, C.J.; Waller, P.J.; Cobb, J.; Carlson, J.; Graves, J.; Dickinson, J.
JURISDICTION	Mississippi
DECIDED	July 29, 2002
DOCKET	No. 2002-CA-01942-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	PERS appealed the Hinds County Circuit Court's amended remand order, which reinstated Freeman's disability status and benefits with back pay and additionally awarded legal interest on the unpaid benefits.
STANDARD OF REVIEW	The opinion applies procedural-bar and mandate-rule principles to determine whether the circuit court exceeded the scope of the Supreme Court's prior mandate; it does not state a separate standard of review.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	The Public Employees’ Retirement System v. John P. Freeman

TOPICS

- appellate procedure
- administrative law
- preservation of error
- judicial review of agency action
- prejudgment interest

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court erred in denying PERS's motion for reconsideration because it lacked authority to award interest on Freeman's back pay.
2. Whether the circuit court exceeded the scope of the Supreme Court's mandate in Freeman I by awarding interest on the reinstated disability benefits.
3. Whether Freeman's claim for interest was procedurally barred because he failed to raise it before PERS and the circuit court.

HOLDINGS

1. Freeman's claim for interest was procedurally barred because he failed to raise the issue before PERS and the circuit court.
2. The circuit court exceeded the scope of the Supreme Court's mandate in Freeman I by awarding interest when the mandate ordered only reinstatement of Freeman's disability status and benefits with back pay.

KEY QUOTATIONS

"You are commanded, that execution and further proceedings as may be appropriate be forthwith be had consistent with this judgment and the Constitution and Law of the State of Mississippi." (§ 1)

"Whatever is once established as the controlling legal rule of decision, between the same parties in the same case, continues to be the law of the case, so long as there is a similarity of facts." (§ 10)

"Because he failed to raise the issue of interest in the proceedings before PERS and the court below, Freeman's claim for interest is procedurally barred." (§ 12)

FACTUAL BACKGROUND

The Supreme Court previously ordered reinstatement of Freeman's disability status and benefits with back pay after determining that PERS's termination decision lacked substantial evidence. On remand, the circuit court ordered reinstatement and back pay and then added legal interest at eight percent calculated from August 1, 1998, despite PERS's objections. Freeman had not raised the interest issue in the proceedings before PERS or in the circuit court before the amended order.

PROCEDURAL HISTORY

In Freeman I, the Supreme Court of Mississippi held that PERS's termination of Freeman's disability benefits was unsupported by substantial evidence and remanded with instructions for reinstatement and back pay, while permitting PERS, at its option, to conduct a new hearing. On remand, the circuit court ordered reinstatement and back pay and later amended its order to award eight percent interest. PERS appealed the interest award and the denial of its motion for reconsideration.

DISPOSITION

REMAND INSTRUCTIONS

The court reversed and rendered the circuit court's judgment on remand from Freeman I only to the extent that it awarded interest. The reinstatement of Freeman's disability status and benefits with back pay was not disturbed.

CASES CITED

- Freeman v. Pub. Employees' Ret. Sys. of Miss., 822 So. 2d 274, 279 (Miss. 2002)
- United States Fid. & Guar. Co. v. Conservatorship of Melson, 809 So. 2d 647, 662 (Miss. 2002)
- Pub. Employees' Ret. Sys. of Miss. v. Langham, 812 So. 2d 969, 970-75 (Miss. 2002)
- Davis v. State, 684 So. 2d 643, 658 (Miss. 1996)
- Cole v. State, 525 So. 2d 365, 369 (Miss. 1987)
- Moeller v. Am. Guarantee & Liab. Ins. Co., 812 So. 2d 953, 960-61 (Miss. 2002)
- Simpson v. State Farm Fire & Cas. Co., 564 So. 2d 1374, 1376-77 (Miss. 1990)
- Cont'l Turpentine & Rosin Co. v. Gulf Naval Stores Co., 244 Miss. 465, 480, 142 So. 2d 200, 207 (Miss. 1962)
- Brewer v. Browning, 115 Miss. 358, 364, 76 So. 267, 269 (Miss. 1917)