

8TH CIR.

Evans v. Pugh

Evans v. Pugh, 902 F.2d 689 (8th Cir. 1990) · Decided May 4, 1990

SUMMARY

****Evans v. Pugh**** (8th Cir. 1990): A non-tenured university employee terminated at age 70 under a mandatory retirement policy had no protected property interest in continued employment because Arkansas statute § 21-3-204 used permissive language ("may") granting employers discretion, not entitlement. The ADEA retaliation claim failed for lack of evidence of a causal link between the employee's prior EEOC charges and the university's failure to rehire him. Summary judgment for the employer was affirmed.

CASE DETAILS

COURT	8th Cir.
WRITING FOR THE COURT	Floyd R. Gibson; Fagg; Wollman
JURISDICTION	Federal
DECIDED	May 4, 1990
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from grant of summary judgment
STANDARD OF REVIEW	De novo; same standard as district court: summary judgment appropriate only if no genuine issue of material fact and movant entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published
PARTIES	Dr. Earl Evans v. University of Arkansas at Pine Bluff

TOPICS

employment law

constitutional law

summary judgment

civil procedure

appellate procedure

PRACTICE AREAS

Employment Law

Constitutional Law

Civil Procedure

QUESTIONS PRESENTED

1. Whether Evans had a property interest in his continued employment after age seventy under Ark. Code Ann. §21-3-204.
2. Whether the University retaliated against Evans in violation of the ADEA by not interviewing or hiring him for the Director position in 1987.

KEY QUOTATIONS

“Property interests, of course, are not created by the Constitution. Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law— rules or understandings that secure certain benefits and that support claims of entitlement to those benefits.” (692)

“Any employee of a public employer may be permitted to continue in the employ of his public employer beyond the attainment of age seventy (70) years upon the written authorization of the chief administrative officer of the employee's agency, department, or institution.” (692)

“To establish a prima facie case of retaliation in violation of the ADEA Evans must show that: (1) he engaged in conduct protected under the ADEA; (2) he was subjected to an adverse employment action at the time of, or after, the protected conduct occurred; and (3) there was a causal link between the protected activity and the adverse employment action.” (693)

FACTUAL BACKGROUND

Dr. Evans was hired in 1983 as Director of International Agricultural Programs, a non-tenured position. He turned 70 in 1985, and the University had a policy automatically retiring non-tenured employees at age 70. He was retired June 30, 1985, but then entered a contract to work until January 31, 1986. The Chancellor recommended not to renew, so the contract ended. In 1987, the position was advertised; Evans applied but was not interviewed. One other applicant was interviewed but rejected. Evans had filed EEOC charges and a lawsuit against the University in 1985.

PROCEDURAL HISTORY

Evans sued for due process and ADEA retaliation. District court granted summary judgment to University. Evans appealed.

DISPOSITION

affirmed