

SUPREME COURT OF THE STATE OF MONTANA

In re the Petition to Transfer Territory from Poplar Elementary School District No. 9 to Froid Elementary School District No. 65

In re Petition to Transfer Territory from Poplar Elementary School District No. 9 to Froid Elementary School District No. 65, 2015 MT 278 (2015) · No. DA 14-0776 · Decided September 17, 2015

SUMMARY

The Montana Supreme Court reversed and remanded a district court order granting Poplar Elementary School District a new hearing on Froid Elementary School District's petition to transfer territory. The Court held that Poplar failed to preserve its statutory argument concerning unsworn testimony and that plain-error review was unwarranted. A dissent would have affirmed on the ground that the county superintendent lacked authority to appoint a deputy to hear and decide the petition.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Jim Rice; Chief Justice Mike McGrath; Justice Laurie McKinnon; Justice Michael E. Wheat
JURISDICTION	Montana
DECIDED	September 17, 2015
DOCKET	DA 14-0776
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Froid appealed a district court order granting Poplar summary judgment, vacating the county superintendent's territory-transfer order, and remanding for a new hearing.
STANDARD OF REVIEW	The Supreme Court reviews a district court acting in an appellate capacity to determine whether the district court reached the correct conclusions under the appropriate standards. The district court reviews a county superintendent's territory-transfer decision for abuse of discretion. Unpreserved issues are reviewed only under the discretionary plain-error standard unless a statutory exception applies.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Froid Elementary School District No. 65 v. Poplar Elementary School District No. 9

TOPICS

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QUESTIONS PRESENTED

1. Whether the district court erred by holding that the county superintendent abused his discretion by receiving unsworn statements at the territory-transfer hearing.
2. Whether the territory-transfer proceeding was governed by the Montana Administrative Procedure Act or the common law for purposes of issue preservation.
3. Whether Poplar's unpreserved statutory claim concerning sworn testimony warranted plain-error review.

HOLDINGS

1. The Montana Administrative Procedure Act does not govern proceedings before a county superintendent because county superintendents are local government officials and actions of a unit of local government are excluded from MAPA's definition of an agency.
2. Poplar failed to preserve its statutory claim because it did not object to the hearing procedure or the receipt of unsworn statements before, during, or after the administrative hearing.
3. Poplar's unpreserved statutory claim did not warrant plain-error review because the record showed no manifest miscarriage of justice, fundamental unfairness, or threat to the integrity of the judicial process.
4. The district court erred by deciding whether the statute required sworn testimony without first determining whether Poplar preserved the issue and, if not, whether plain-error review was warranted.

KEY QUOTATIONS

“Although courts commonly use the two terms interchangeably—this court included—the questions of waiver and preservation for review require two different inquiries.” (¶ 12)

“‘Forfeiture,’ as opposed to ‘waiver,’ is the correct term in this context, since ‘forfeiture’ refers to ‘the failure to make the timely assertion of a right,’ whereas ‘waiver’ concerns ‘the intentional relinquishment or abandonment of a known right.’” (¶ 14)

FACTUAL BACKGROUND

Froid and registered electors petitioned to transfer territory from Poplar Elementary School District No. 9 to Froid Elementary School District No. 65. The Roosevelt County Superintendent appointed Paul Huber as deputy superintendent to hear and decide the petition. Huber conducted a hearing at which twenty-one people gave unsworn statements, and Poplar neither objected to the procedure beforehand nor to the unsworn testimony

during or after the hearing. Huber approved the transfer, but the district court vacated the order and required a new hearing based on the absence of oaths.

PROCEDURAL HISTORY

Froid and registered electors petitioned the Roosevelt County Superintendent of Schools to transfer territory from Poplar to Froid. Deputy superintendent Paul Huber conducted the hearing and approved the transfer. The district court, reviewing the administrative decision on cross-motions for summary judgment, held that receiving unsworn statements constituted an abuse of discretion, vacated the transfer order, and ordered a new hearing. The Montana Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the district court for further proceedings in reviewing the county superintendent's decision consistent with the opinion.

CASES CITED

- Credit Service Co., Inc. v. Crasco, 2011 MT 211, ¶ 11, 361 Mont. 487, 264 P.3d 1061
- In re Petition to Transfer From Dutton, 2011 MT 152, ¶ 7, 361 Mont. 103, 259 P.3d 751
- In re Marriage of Guffin, 2010 MT 100, ¶ 20, 356 Mont. 218, 232 P.3d 888
- Silva v. City of Columbia Falls, 258 Mont. 329, 335, 852 P.2d 671, 675 (1993)
- Hunt v. K-Mart Corp., 1999 MT 125, ¶ 10, 294 Mont. 444, 981 P.2d 275
- Hulse v. DOJ, Motor Vehicle Division, 1998 MT 108, ¶ 46, 289 Mont. 1, 961 P.2d 75
- McDermott v. Carie, 2005 MT 293, ¶ 24, 329 Mont. 295, 124 P.3d 168
- State v. Lacey, 2009 MT 62, ¶ 22, 349 Mont. 371, 204 P.3d 1192
- In re T.E., 2002 MT 195, ¶ 20, 311 Mont. 148, 54 P.3d 38
- In re D.H., 2001 MT 200, ¶ 41, 306 Mont. 278, 33 P.3d 616
- Rasmussen v. Sibert, 153 Mont. 286, 295, 456 P.2d 835, 840 (1969)
- Hurly v. Lake Cabin Dev., LLC, 2012 MT 77, ¶ 27, 364 Mont. 425, 276 P.3d 854
- El Dorado Heights Homeowners' Ass'n v. DeWitt, 2008 MT 199, ¶ 16, 344 Mont. 77, 186 P.3d 1249
- Kloss v. Edward D. Jones & Co., 2002 MT 129, ¶ 22, 310 Mont. 123, 54 P.3d 1
- Miller v. Eighteenth Jud. Dist. Ct., 2007 MT 149, ¶ 46 n.5, 337 Mont. 488, 162 P.3d 121
- Yanzick v. Sch. Dist., 196 Mont. 375, 383, 641 P.2d 431, 436 (1982)
- Paulson v. Flathead Conservation Dist., 2004 MT 136, ¶ 40, 321 Mont. 364, 91 P.3d 569
- In the Petition to Transfer Territory from High Sch. Dist. No. 6, 2000 MT 342, ¶ 11, 303 Mont. 204, 15 P.3d 447

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