

SUPREME COURT OF ALASKA

Alaska State Employees Association/AFSCME Local 52, AFL-CIO v.
State of Alaska

74 P.3d 881 (Alaska 2003) · No. S-10226 · Decided July 25, 2003

SUMMARY

The Alaska Supreme Court affirmed the superior court’s order vacating an arbitrator’s decision that reinstated a state administrative clerk discharged after a felony theft conviction. The court held that, under the deferential gross-error standard, the arbitrator committed gross error by finding that the termination was not for just cause, given the employee’s access to confidential information and position of public trust.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Eastaugh, Justice; Fabe, Chief Justice; Matthews, Justice; Bryner, Justice; Carpeneti, Justice
JURISDICTION	Alaska
DECIDED	July 25, 2003
DOCKET	S-10226
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a superior court order granting the State summary judgment and vacating a grievance arbitration award that had ordered reinstatement of a terminated public employee.
STANDARD OF REVIEW	The court applied the more deferential gross-error standard to review of the grievance arbitration award, while noting that it had not definitively resolved whether compulsory grievance arbitration is governed by that standard or by the arbitrary-and-capricious standard. Under the gross-error standard, an arbitrator’s decision may be vacated when independent review shows an obvious and significant mistake.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; precedential.
PARTIES	Alaska State Employees Association/AFSCME Local 52, AFL-CIO v. State of Alaska

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QUESTIONS PRESENTED

1. What standard of review applies to the arbitrator's decision in a compulsory grievance arbitration proceeding under the collective bargaining agreement?
2. Whether the arbitrator committed gross error by finding that the grievant's termination was not for just cause.
3. Whether the superior court erred by vacating the arbitration award without remanding the matter to the arbitrator.

HOLDINGS

1. The court applied the more deferential gross-error standard because the result would be the same under either the gross-error or arbitrary-and-capricious standard, and the court therefore did not need to definitively resolve which standard governs compulsory grievance arbitration.
2. The arbitrator committed gross error in determining that the grievant's termination was not for just cause. Given the grievant's undisputed felony conviction for dishonest conduct, access to confidential information, and position of public trust, the State had just cause to terminate her.
3. The superior court did not err by vacating the arbitration award without remanding the matter to the arbitrator.
4. The court would not address the seven-tests theory because the appellant failed to raise it in the superior court.

KEY QUOTATIONS

“But we will reverse an arbitrator's decision if our independent review of the decision indicates that the arbitrator has made an "obvious and significant" mistake.” (883)

“Given the arbitrator's findings, we hold that the arbitrator committed gross error in determining that the termination was not for just cause.” (885)

“The superior court's order had the intended effect of validating CSED's termination of the grievant. Since the only dispute was just cause, the superior court did not err.” (888)

FACTUAL BACKGROUND

The grievant was an administrative clerk for Alaska's Child Support Enforcement Division and had access to confidential information, including Social Security numbers, bank-account numbers, employment information, and addresses. She had pleaded guilty to felony theft of public money after fraudulently withholding income

information in a food-stamp application and was ordered to pay restitution. The State terminated her, citing the position's public-trust responsibilities and the potential damage to the agency's integrity and reputation from retaining an employee convicted of dishonest conduct.

PROCEDURAL HISTORY

The Alaska Child Support Enforcement Division terminated an administrative clerk after learning of her felony conviction for theft of public money. Her union filed a grievance under the collective bargaining agreement, and the arbitrator found that the discharge was not for just cause and ordered reinstatement. The State petitioned the superior court to vacate the award. After summary-judgment proceedings and reconsideration, the superior court reaffirmed its order vacating the arbitration award, and the union appealed.

DISPOSITION

affirmed

CASES CITED

- Pub. Safety Employees Ass'n, Local 92 v. State, 902 P.2d 1334 (Alaska 1995)
- Dep't of Pub. Safety v. Pub. Safety Employees Ass'n, 732 P.2d 1090 (Alaska 1987)
- State v. Pub. Safety Employees Ass'n, Local 92, 798 P.2d 1281 (Alaska 1990)
- Manning v. Alaska Railroad Corp., 853 P.2d 1120 (Alaska 1993)
- Braun v. Alaska Commercial Fishing & Agriculture Bank, 816 P.2d 140 (Alaska 1991)
- Cassel v. State, Department of Administration, 14 P.3d 278 (Alaska 2000)
- Wells v. State, 46 P.3d 967 (Alaska 2002)
- Petersen v. Mut. Life Ins. Co. of New York, 803 P.2d 406 (Alaska 1991)