

SUPREME COURT OF NEW JERSEY

Thurber v. City of Burlington, 191 N.J. 487

924 A.2d 533 (2007) · Decided June 20, 2007

SUMMARY

The Supreme Court of New Jersey held that a deputy municipal court administrator serving in a career service position was subject to the disciplinary authority of the Merit System Board, notwithstanding the objection of the vicinage Assignment Judge. The Court concluded that the Board’s six-month suspension was not arbitrary, capricious, or unreasonable and did not impermissibly interfere with the Judiciary’s constitutional authority. The Court affirmed the Appellate Division’s judgment.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Hoens; Chief Justice Zazzali; Justice Long; Justice LaVecchia; Justice Albin; Justice Wallace
JURISDICTION	New Jersey
DECIDED	June 20, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Michelle Thurber appealed the Merit System Board's decision imposing a six-month suspension rather than termination and ordering her reinstatement to her municipal court position. The Appellate Division affirmed, and the Supreme Court of New Jersey granted certification petitions filed by the City and the intervening Judiciary and Assignment Judge.
STANDARD OF REVIEW	Final agency action is reviewed to determine whether the agency violated express or implied legislative policies, whether substantial evidence supports its findings, and whether its application of legislative policies to the facts was clearly erroneous. The court will not ordinarily overturn an agency decision absent a showing that it was arbitrary, capricious, unreasonable, or unsupported by fair evidence, and appellate courts defer to agency expertise.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Michelle Thurber v. City of Burlington

TOPICS

employment law agency adjudication judicial review of agency action administrative law
separation of powers

PRACTICE AREAS

employment law administrative law constitutional law municipal law

QUESTIONS PRESENTED

1. Whether the Merit System Board had authority to review and modify the discipline imposed on a deputy municipal court administrator despite the Assignment Judge's direction that the employee be removed.
2. Whether the Board's exercise of authority over the discipline and reinstatement of the career service employee impermissibly interfered with the Judiciary's constitutional authority or violated separation of powers.
3. Whether the Board's six-month suspension, rather than termination, was arbitrary, capricious, or unreasonable.

HOLDINGS

1. Because the position of deputy municipal court administrator had been allocated by the Judiciary to the career service, the employee was entitled to the statutory rights and protections of the Civil Service Act, and the Merit System Board had jurisdiction to review the discipline and order reinstatement.
2. The Merit System Board's exercise of disciplinary authority over the career service employee did not impermissibly infringe the Judiciary's constitutional authority and did not violate separation of powers.
3. The Merit System Board's decision to impose a six-month suspension rather than terminate Thurber was not arbitrary, capricious, or unreasonable and was supported by the record.

KEY QUOTATIONS

“As this historical analysis makes plain, this Court has never relinquished its constitutional authority as it relates to judiciary employees.” (at 539)

“Rule 1:33-4(e) does not give assignment judges plenary authority over career service employees.” (at 541)

“In light of plaintiff's unblemished record and long period of service, however, there is nothing arbitrary or capricious in the Board's decision that a penalty short of termination would be appropriate.” (at 542)

FACTUAL BACKGROUND

Michelle Thurber was employed for more than ten years as a deputy municipal court administrator for the City of Burlington, a career service position. After she was arrested and later pleaded guilty to reckless driving and disturbing the peace, the City charged her with conduct unbecoming a public employee and other sufficient cause for discipline. A hearing officer recommended termination, but an ALJ found that termination was

unwarranted in light of her unblemished record, the absence of evidence supporting some allegations, and progressive-discipline considerations, recommending a six-month suspension instead.

PROCEDURAL HISTORY

The City terminated Thurber after disciplinary proceedings arising from her arrest and guilty pleas. The Merit System Board transferred her appeal to the Office of Administrative Law, adopted the ALJ's findings, imposed a six-month suspension, and concluded that it could order reinstatement despite the Assignment Judge's objection. The Appellate Division affirmed the Board's decision, and the Supreme Court affirmed the Appellate Division.

DISPOSITION

affirmed

CASES CITED

- In re P.L.2001, Chapter 362, 186 N.J. 368, 381-82, 895 A.2d 1128 (2006)
- In re Judges of Passaic County, 100 N.J. 352, 367, 495 A.2d 848 (1985) (per curiam)
- Knight v. City of Margate, 86 N.J. 374, 388-91, 431 A.2d 833 (1981)
- State v. De Stasio, 49 N.J. 247, 253, 229 A.2d 636 (1967), cert. denied, 389 U.S. 830, 88 S.Ct. 96, 19 L.Ed.2d 89 (1967)
- In re Mattera, 34 N.J. 259, 272, 168 A.2d 38 (1961)
- Passaic County Prob. Officers' Ass'n v. Passaic County, 73 N.J. 247, 253, 374 A.2d 449 (1977)
- Thurber v. City of Burlington, 387 N.J. Super. 279, 299-300, 903 A.2d 1079 (App. Div. 2006)
- Aqua Beach Condo. Ass'n v. Dep't of Cmty. Affairs, 186 N.J. 5, 15-16, 890 A.2d 922 (2006)
- Campbell v. Dep't of Civil Serv., 39 N.J. 556, 562, 189 A.2d 712 (1963)
- Mazza v. Bd. of Trs., 143 N.J. 22, 25, 667 A.2d 1052 (1995)
- Greenwood v. State Police Training Ctr., 127 N.J. 500, 513, 606 A.2d 336 (1992)
- Mayflower Sec. Co. v. Bureau of Sec., 64 N.J. 85, 93, 312 A.2d 497 (1973)

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