



IN THE COURT OF APPEALS OF IOWA

15

HELEN COURTER, )

Plaintiff-Appellant, )

Filed April 22, 1987

vs. )

WINFIELD-MT. UNION COMMUNITY )  
SCHOOL DISTRICT, )

7-13  
86-197

Defendant-Appellee. )

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Appeal from the Iowa District Court for Henry County (No. CL 436-0782),  
Harlan W. Bainter, R. David Fahey, and David B. Hendrickson, Judge.

Plaintiff appeals the district court's summary judgment determinations  
on the due process damages claim and the trial court determination adverse  
to her on the merits. **AFFIRMED.**

Emmit J. George, Jr. of Emmit J. George, Jr. Law Office, Iowa City,  
for plaintiff-appellant.

Robert A. Engberg of Aspelmeier, Fisch, Power, Warner & Engberg, Burling-  
ton, and Steven S. Hoth of Hirsch, Adams, Hoth & Krekel, Burlington, for defen-  
dant-appellee.

Heard by Donielson, P.J., and Snell and Sackett, JJ.

**SNELL, J.**

This case began inconspicuously in 1973 when the board of defendant Winfield-Mt. Union Community School District decided to consider terminating the teaching contract of plaintiff Helen Courter following the 1972-73 academic year. Since that time this case has been through, at our best estimate, three hearings before the defendant school board, three trials in state court, one trial in federal court, three state court appeals, and a number of district court judges, one of whom died while the case was pending in his court. Fortunately, relatively little of the lengthy case history is directly pertinent to this appeal. The suit which forms the basis for the present appeal was initiated on July 8, 1982, when Courter filed a petition alleging that the board's termination of her contract was based upon arbitrary and capricious reasons. Courter also sought damages and back pay. She claimed back pay and benefits for the period between the close of the 1972-73 academic year and the close of the 1981-82 academic year. This represents the period between the board's initial refusal to renew her contract and the date of Courter's final hearing before the board. This final hearing was the result of this court's 1981 determination that Courter's 1973 hearing did not comply with procedural due process because she had been denied the opportunity to cross-examine witnesses. On May 27, 1983, Courter filed a recast motion for summary judgment as to her claim for back pay and benefits. The district court denied her motion on September 20, 1983. On October 11, 1984, Winfield-Mt. Union filed their motion for summary judgment. The district court granted the board's motion with respect to Courter's claim for back pay and benefits but denied the motion as regards Courter's claim that the board's action was arbitrary and capricious. That issue was tried to the district court. On January 27, 1986, the district court dismissed Courter's petition and entered judgment in favor of Winfield-Mt. Union. This appeal

followed. Our review is limited to the correction of errors at law. Iowa R App. P. 4.

Courter claims the district court erred both in denying her motion for summary judgment and in granting the board summary judgment on the issue of her entitlement to back pay and benefits. She contends that as the 1973 board hearings denied her procedural due process, her teaching contract was automatically renewed from year to year until the board's final hearing in 1982

In reviewing the grant of summary judgment under Iowa Rule of Civil Procedure 237, the question is whether the moving party demonstrated the absence of any genuine issue of material fact and showed entitlement to judgment on the merits as a matter of law. Suss v. Schammel, 375 N.W.2d 252, 254 (Iowa 1985); Brown v. Monticello State Bank, 360 N.W.2d 81, 83-84 (Iowa 1984). The resisting party must set forth specific facts showing there is a genuine issue for trial. Iowa Civil Rights Commission v. Massey-Ferguson, Inc., 207 N.W.2d 5, 8 (Iowa 1973); Iowa R. Civ. P. 237(e). The resisting party may not rely solely on legal conclusions to show there is a genuine issue of material fact justifying denial of summary judgment. Byker v. Rice, 360 N.W.2d 572, 575 (Iowa App 1984). Our task on appeal is to determine only whether a genuine issue of material fact exists and whether the law was correctly applied. Adam v. Mt. Pleasant Bank & Trust Co., 355 N.W.2d 868, 872 (Iowa 1984). We examine the record in a light most favorable to the party opposing the motion for summary judgment to determine if movant met his or her burden. Matherly v. Hanson, 359 N.W.2d 450, 453 (Iowa 1984).

Iowa Code section 279.13 (1973), upon which Courter's contention is based, provides the statutory procedures that must be followed in order to terminate a teaching contract. Failure to proceed in strict accordance with these statutory procedures results in automatic renewal of the teaching contract. E.g., Barrett

v. Eastern Iowa Community College District, 221 N.W.2d 781, 784 (Iowa 1974)

As the statute itself states, "[s]aid contract shall remain in force and effect for the period stated in the contract and thereafter shall be automatically continued in force and effect for equivalent periods, . . . until terminated as hereinafter provided, . . . ." Iowa Code § 279.13 (1973). In the case at bar, however, it is not claimed that the board failed to proceed in accordance with any of the statutorily-mandated procedures. Courter points, rather, to the board's failure to provide her with constitutionally-required procedural due process during the statutorily-mandated hearings. This failure, she argues, resulted in the automatic continuation of her contract from year to year until its proper termination in 1982.

An award similar to that sought here by Courter was made to a plaintiff-teacher in Thomas v. Ward, 529 F.2d 916 (4th Cir. 1975). There the court found that, because the plaintiff had been denied procedural due process during his termination hearing, an award of back pay was required in recognition of the "reinstatement, . . . to which [plaintiff] was technically entitled prior to the second hearing," Thomas, 529 F.2d at 920. That rationale was rejected, however, by the United States Supreme Court in Carey v. Phipps, 435 U.S. 247, 98 S. Ct. 1042, 55 L. Ed. 2d 252 (1978); see also, Taliaferro v. Willett, 588 F.2d 428 (4th Cir. 1978). In Carey, the Court began by noting that "the rules governing compensation for injuries caused by the deprivation of constitutional rights should be tailored to the interests protected by the particular right in question . . . ." 435 U.S. at 259, 98 S. Ct. at 1050, 55 L. Ed. 2d at 262. "Procedural due process rules," according to the Carey Court, "are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." 435 U.S. at 259, 98 S. Ct. at 1050, 55 L. Ed. 2d at 262. Given these principles, the Court proceeded to place its imprimatur on

the following logic of the court of appeals there under review:

In this case, the Court of Appeals held that if petitioners can prove on remand that "[respondents] would have been [deprived] even if a proper hearing had been held," [cite omitted] then respondents will not be entitled to recover damages to compensate them for injuries caused by the [deprivation]. The court thought that in such a case, the failure to accord procedural due process could not properly be viewed as the cause of the [deprivation]. [cites omitted] The court suggested that in such circumstances, an award of damages for injuries caused by the [deprivation] would constitute a windfall, rather than compensation, to respondents. [cites omitted]

435 U.S. at 260, 98 S. Ct. at 1050, 55 L. Ed. 2d at 262-63. In a footnote to the above-quoted text, the Carey Court expressly contrasted this logic with that employed by cases such as Thomas. Carey, 435 U.S. at 260 n.15, 98 S. Ct. at 1050 n.15, 55 L. Ed. 2d at 263 n.15.

In the present case, the board voted in 1982 to ratify its 1973 termination of Courter's contract. The 1982 vote followed a procedurally-proper hearing. Given this, we think the district court correctly dismissed Courter's claim for substantial compensatory damages. Even assuming that, as in Thomas, Courter was "technically entitled" to a continuation of her contract prior to her 1982 hearing, Thomas, 529 F.2d at 920, granting her the substantial damages she seeks in that part of her petition dismissed by the district court's summary judgment order would be plainly at odds with the logic of Carey. See Taliaferro, 588 F.2d at 428-29. We think, moreover, that we need not even make this assumption. Iowa Code section 279.13 (1973) provides for automatic contract continuation unless the contract is terminated according to statutorily-mandated procedures. Barrett, 221 N.W.2d at 783. The procedure that was not complied with in the present case was not statutorily mandated. It was imposed, rather, by a judicial interpretation of the requirements of due process made some eight years after the challenged hearing took place. The board proceeded at all times in compliance with the statutory procedure; if not with the procedure engrafted

by this court's belated due process analysis. Although it is true legislative enactment of a statute carries with it the presumption that the legislature intended compliance with federal and state constitutions, Iowa Code § 4.4(1) (1987), it does not follow that when the legislature expressly provides a remedy for statutory noncompliance the legislature intended that the remedy extend to instances of constitutional noncompliance also.

As is illustrated by the line of cases represented by Barrett, failure to comply with statutorily-mandated procedures when attempting to terminate a teaching contract will result in the automatic continuation of that contract. We think, however, that the logic of Carey compels us to hold differently with respect to the failure to comply with procedures that were judicially-determined ex post to be required by due process. Such noncompliance, we believe, will result in the automatic continuation of a teaching contract only where the non-compliance resulted in the erroneous deprivation of employment. Cf. Carey, 435 U.S. at 259-60, 98 S. Ct. at 1050, 55 L. Ed. 2d at 262-63. The board's 1982 vote determined that such was not the case here. Accordingly, the district court's grant of summary judgment to the board was appropriate as was the denial of Courter's summary judgment motion.

Courter's second contention claims error in the district court's finding that she failed to establish by a preponderance that the board's decision to terminate her contract was based upon arbitrary and capricious reasons. Iowa Code section 279.13 (1973) provides that, upon request, the board must give the teacher a written statement of specific reasons for terminating the contract. The purpose of this provision

is to afford the teacher an opportunity to successfully argue his dismissal was arbitrary and capricious if he can prove that each of the stated reasons underlying his dismissal is trivial, is wholly unsupported by a basis in fact, or is unrelated to the educational process or to working relationships with the educational institute

or his contemplated dismissal is based upon any impermissible constitutional reasons, such as race, religion, or the assertion of rights guaranteed by law or the constitution.

Kruse v. Board of Directors of Lamoni Community, 231 N.W.2d 626, 634 (Iowa 1975).

In order to achieve this purpose, the board must

- (1) give the teacher notice in writing of the time and place of the conference with the board considering termination of the contract,
- (2) at the request of the teacher furnish a written statement of the specific reasons for considering termination prior to the time of the conference, and
- (3) hold the private conference.

Id.

Our supreme court faced an identical claim in Keith v. Community School District of Wilton in the Counties of Cedar and Muscatine, 262 N.W.2d 249 (Iowa 1978). There the court pointed out that the school board's reasons for terminating a teaching contract must have a factual basis in order to constitute compliance with the requirements of Iowa Code section 279.13 (1973). Keith, 262 N.W.2d at 257-58; see Kruse, 231 N.W.2d at 634. The court then held that the record contained "substantial support" for the district court's conclusion that the requirements of section 279.13 had been met. Keith, 262 N.W.2d at 258; cf. Erb v. Iowa State Board of Public Instruction, 216 N.W.2d 339, 342-44 (Iowa 1974) (substantial evidence review applied in context of Iowa Code section 280.23 revocation of teaching certificate). Moreover, the court held that this analysis also disposed of the appellant's claim that the school board's action had been "arbitrary, capricious . . . unreasonable" and "without basis in fact"

Id.

Similarly, the present record contains substantial support for the district court's position. Accordingly, we are convinced that Courter's contention cannot be sustained. We are cognizant of the 1976 amendment to Iowa Code Chapter 279, 66 G.A. ch. 1151, § 1, which, for the first time, expressly provided for

judicial review of claims that the board's action was "[u]nsupported by a preponderance of the competent evidence in the record . . . ." Iowa Code § 279.18 (1977). Even were the present case a proper one for the application of this standard, we think the record amply supports the propriety of the board's action. See Bruton v. Ames Community School District, 291 N.W.2d 351, 354-55 (Iowa 1980); Board of Education of Fort Madison Community School District v. Youel, 282 N.W.2d 677, 682-84 (Iowa 1979).

The district court's judgment is affirmed.

**AFFIRMED.**