

IN THE COURT OF APPEALS OF IOWA

FILED

SEP 28 1988

CLERK SUPREME COURT

ALLISON-BRISTOW COMMUNITY)
SCHOOL DISTRICT; ALLISON-
BRISTOW SCHOOL BOARD MEMBERS)
AND PRESIDENT, BERNARD)
FRANKEN; ALLISON-BRISTOW)
COMMUNITY SCHOOLS; and DEAN)
UHLENHOPP, SUPERINTENDENT OF)
ALLISON-BRISTOW COMMUNITY)
SCHOOLS,)

Petitioners-Appellees,)

vs.)

IOWA CIVIL RIGHTS COMMISSION,)

Respondent-Appellant,)

vs.)

BERNARD W. ROWLAND,)

Intervenor.)

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8-51
87-792

Appeal from the Iowa District Court for Butler County
(No. 17009), Jon Stuart Scoles, Judge.

The Civil Rights Commission appeals the district
court's finding that the school district's discharge of a
high school principal had not been discriminatory and was
not in violation of the Iowa Civil Rights Act. **REVERSED.**

Thomas J. Miller, Attorney General, and Teresa
Baustian, Assistant Attorney General, for
respondent-appellant.

Lawrence P. McLellan and William F. Fanter of Bradshaw, Fowler, Proctor & Fairgrave, Des Moines, for petitioners-appellees.

Victoria L. Herring, West Des Moines, for intervenor.

Heard by Schlegel, P.J., and Sackett and Habhab, JJ.

PER CURIAM**34**

In 1981 Bernard Rowland was fired as a high school principal by the Allison-Bristow Community School District. Rowland asserts he was fired because he sought the dismissal of a teacher, DeWild, who had made racist comments and had objected on racist grounds to working with a black student teacher.

The school district asserts that Rowland was fired in part because of unrelated derelictions of duty and in part because he had not followed proper procedures in seeking the dismissal of the racist teacher. In support of its allegations of improper procedures in seeking DeWild's dismissal, the school district makes three allegations: (1) At the time of the racial incident in January 1981, Rowland mentioned the possibility of firing DeWild but then acquiesced in the school board's decision merely to reprimand DeWild; (2) At the time of routine teacher contract discussions in March 1981, Rowland made no objection to the renewal of DeWild's contract; and (3) Only later, in May 1981, did Rowland begin to agitate for DeWild's dismissal.

Rowland acknowledges that he acquiesced in the mere reprimand of DeWild and in the subsequent renewal of DeWild's contract. Rowland states he later sought DeWild's discharge because of regret and guilt over the fact that the black student teacher had not been accepted due to DeWild's objections.

After the school district fired Rowland, Rowland responded by filing a complaint with the Iowa Civil Rights Commission. Rowland alleged that his discharge was discriminatory and was a violation of Iowa Code section 601A.11(2) of the Iowa Civil Rights Act. Section 601A.11(2) provides that it is an unfair or discriminatory practice to discriminate against a person "because such person has lawfully opposed any practice forbidden under this chapter."

The Civil Rights Commission found that the school district had unlawfully discriminated against Rowland by terminating his employment because of lawful opposition to a discriminatory practice. The Commission awarded Rowland various damages.

The school district challenged the Civil Rights Commission's agency action by filing a petition for judicial review. After a hearing, the district court overturned the Civil Rights Commission's award to Rowland. The district court concluded there was no substantial evidence to support the Commission's conclusion that Rowland was fired because of his objections to racist remarks or practices.

The Civil Rights Commission has appealed from the district court's ruling. The Civil Rights Commission contends that its conclusions were supported by substantial evidence and that the district court erred by holding otherwise. The Civil Rights Commission also contends the

district court erroneously substituted its own factual findings for those of the Commission, thereby exceeding the limited standard of review applicable in challenges to administrative agency actions under Iowa Code Chapter 17A.

We must determine whether there is substantial evidence in the record, viewed as a whole, to support the findings of the Iowa Civil Rights Commission in its recommended order of December 27, 1985. We find there is.

On purely factual matters such as this, both the district court and this court exercise a limited scope of review. Fact findings of an agency are binding on the courts when they are supported by substantial evidence. Norland v. Iowa Dep't of Job Serv., 412 N.W.2d 904, 913 (Iowa 1987). Evidence is not insubstantial merely because it would have supported contrary inferences. Id. at 913. It is substantial when a reasonable mind would accept it as adequate to reach the same findings. Id. When there is a conflict in the evidence or when reasonable minds might disagree about the inferences to be drawn from the evidence, the decision of the agency should be affirmed. Id. at 908. In short, the findings of an agency are binding on appeal unless a contrary result is demanded as a matter of law. Id. The limited scope of factual review is warranted by the presumably greater expertise an agency has over matters within its purview. Id. The possibility of drawing two inconsistent conclusions from the evidence does not prevent an agency's finding from being supported by

substantial evidence. Peoples Memorial Hosp. v. Iowa Civil Rights Comm'n, 322 N.W.2d 87, 91 (Iowa 1982).

Rowland had to establish a prima facie case of discrimination. In order to do that, Rowland had to establish (1) statutory protected expression, (2) an adverse employment action, and (3) a causal link between the protected expression and the adverse action. Payne v. McLemore's Wholesale & Retail Stores, 654 F.2d 1130, 1140-42 (5th Cir. 1981).

Both the Commission and the trial court found that Rowland had established a prima facie case. The Allison-Bristow School District then proffered legitimate reasons for its termination of Rowland. The issue then became whether or not Rowland could prove that the reasons proffered by the school district were pretextual.

In its notice of termination to Rowland, the school district listed five ways in which the principal's job performance was deficient. These were the school district's reasons for Rowland's termination. The hearing officer of the Commission examined those five reasons. His examination of the entire record, together with the demeanor of the witnesses, led him to a finding that Rowland was not terminated because of poor job performance, as listed by the five reasons given by Allison-Bristow, but because of his lawful opposition to policies which he viewed as racially discriminatory. The hearing officer for the Commission, therefore, concluded that retaliation was a

factor in the bad performance reviews and the³⁸ ultimate decision of the high school to terminate Rowland and that the decision of the high school constituted intentional discrimination in violation of the Iowa Civil Rights Act.

The trial court, on the other hand, found that the five reasons listed by the high school in its termination notice constituted the reason that Rowland was terminated. The trial court stated:

When considering all the facts and circumstances in this case, including those not specifically referred to above, the Court concludes that Rowland was not terminated because of his opposition to the remarks made by DeWild, but rather because of his complete and utter disregard for his duties and for his decision not to cooperate with the school board or its administration. While the Court agrees the remarks made by DeWild were obscene and reprehensible, Rowland's opposition to those remarks was not the cause of his termination.

The trial court then determined that the Commission's decision was not supported by substantial evidence.

After reviewing the record before us as a whole, we must hold contrary to the trial court. We find that the Commission's findings are substantial because a reasonable mind would accept it as adequate to reach the same findings. We must ask "not whether the evidence might support a different finding, but whether the evidence supports the findings actually made" by the Commission. Norland v. Iowa Dep't of Job Serv., 412 N.W.2d at 908. Upon doing this, we find that there was substantial evidence to support the findings by the Commission. By so

finding, we do not determine that the trial court's findings were unreasonable. However, when reasonable minds might disagree about the inferences to be drawn from the evidence, the decision of the agency should be affirmed. Id. at 908.

The trial court did not find that the evidence in the record was not that which a reasonable mind would accept as adequate support for the agency's findings of fact or conclusions of law. Rather, as the court viewed evidence differently than the agency had, and drew different inferences from that evidence, it concluded that the agency decision was not supported by substantial evidence. The trial court's decision is, therefore, contrary to the standard of review prescribed by Iowa Code section 17A.19(8) (1987).

REVERSED.