Rel: September 4, 2020

SUPREME COURT OF ALABAMA

SPECIAL TERM, 2020

1190164

Cynthia Anthony; William Ashley, in his official capacity as president of Shelton State Community College; and Jimmy Baker, in his official capacity as chancellor of the Alabama Community College System

v.

Scheree Datcher, Khristy Large, and Robert Pressley

Appeal from Tuscaloosa Circuit Court
(CV-17-900805)

BRYAN, Justice.

Cynthia Anthony, former interim president of Shelton State Community College ("Shelton State"); William Ashley,

then president of Shelton State;[1] and Jimmy Baker, chancellor of the Alabama Community College System ("the ACCS") (hereinafter collectively referred to as "the college defendants"), appeal from a judgment entered by the Tuscaloosa Circuit Court in favor of Khristy Large and Robert Pressley, current instructors at Shelton State, and Scheree Datcher, a former instructor at Shelton State (hereinafter collectively referred to as "the instructor plaintiffs"). We affirm in part, reverse in part, and remand.

Facts and Procedural History

Shelton State is a two-year college that is part of the ACCS. Large and Pressley are instructors in the Office Administration Department ("OAD") at Shelton State. Datcher was an OAD instructor at Shelton State but is now retired. The ACCS has a policy, Board Policy 605.02 ("the policy"), that establishes how community-college instructors are credentialed for salary purposes. Under the policy, an instructor is placed into one of three groups based on the

[1]William Ashley is no longer president of Shelton State. See Rule 43(b), Ala. R. App. P., providing that, when a public officer is a party to an appellate proceeding and ceases to hold office, "the public officer's successor is automatically substituted as a party."

instructor's "teaching area": Group A, Group B, or Group C. After an instructor is placed into a group, the instructor is then ranked within the group for salary purposes according to criteria listed in the policy. The primary issue in this case is whether the instructor plaintiffs should be placed in Group A or Group B (the parties agree that Group C is inapplicable). In relevant part, the policy provides that instructors are to be classified as Group A if they teach credit courses in "professional, occupational, and technical areas that are components of associate degree programs designed for college transfer." Conversely, the policy provides that instructors are to be classified as Group B if they teach in "professional, occupational, and technical areas that are components of associate degree programs not usually resulting in college transfer to senior institutions."

In 1999, Fred Gainous, then chancellor of the Alabama Department of Postsecondary Education, the predecessor to the ACCS, issued a document to the presidents of Alabama's two-year colleges regarding placement of instructors in the appropriate group under the policy ("the credentialing

document").[2] The credentialing document lists each department of study in Group A, Group B, or Group C. The credentialing document lists OAD, the department at issue here, as being in Group A. The credentialing document was accompanied by a memorandum from Chancellor Gainous stating, in substantive part, that the groupings in the credentialing document "are utilized by the Alabama College System to reference appropriate credential placement, to complement rank or level placements as noted in the [policy], and to recommend placement and/or advancement on designated salary schedules." The credentialing document has been updated over time, but OAD has remained in Group A throughout the updates. Thus, under the credentialing document, OAD instructors, like the instructor plaintiffs in this case, are classified as Group A.

In 2013, Joan Davis, then interim president of Shelton State, concluded that Datcher and Pressley, the two instructor plaintiffs then working at Shelton State as OAD instructors, should be reclassified from Group A to Group B, contrary to

[2]At that time, the Department of Postsecondary Education controlled the two-year college system in Alabama. However, in 2015, the ACCS was created as a body corporate, replacing and succeeding the Department of Postsecondary Education. See § 16-60-110.1, Ala. Code 1975.

the credentialing document. Davis asked Mark Heinrich, then chancellor of the Department of Postsecondary Education, to approve the reclassification, and he did so. Datcher and Pressley received higher salaries by being reclassified to Group B. When the other instructor plaintiff in this case, Large, was hired by Shelton State to be an OAD instructor in 2013, she was also placed in Group B. However, in 2016, Chancellor Heinrich directed Anthony, then interim president of Shelton State, to review instructors' classifications to make sure they were properly classified. Anthony determined that the instructor plaintiffs should be classified as Group A, in accordance with the credentialing document. Thus, she reclassified the instructor plaintiffs to Group A, which resulted in decreased salaries for the instructor plaintiffs.

The instructor plaintiffs subsequently sued Anthony, in her individual capacity and in her official capacity as interim president of Shelton State. When Anthony was later replaced by Jason Hurst as interim president, Hurst was automatically substituted for Anthony with respect to the official-capacity claims, Rule 25(d)(1), Ala. R. Civ. P., but the individual-capacity claims against Anthony remained

pending. William Ashley later became president of Shelton State and was substituted for Hurst with respect to the official-capacity claims originally alleged against Anthony. The instructor plaintiffs also sued Jimmy Baker, in his official capacity as chancellor of the ACCS. The instructor plaintiffs sought a declaratory judgment, a writ of mandamus, and injunctive relief. Specifically, the instructor plaintiffs asked the trial court for a judgment declaring that they are entitled to be in Group B, ordering them to be placed in Group B, and awarding them backpay for the period following Anthony's reclassification of them to Group A.

The trial court held a three-day bench trial. At trial, the college defendants argued, among other things, that the policy requires that the instructor plaintiffs be in Group A, and the instructor plaintiffs argued, among other things, that the policy requires that they be in Group B. The trial court entered a judgment in favor of the instructor plaintiffs, concluding that they are properly classified in Group B under the policy and ordering that the instructor plaintiffs be placed in Group B. The trial court also awarded the instructor plaintiffs backpay for the period following

Anthony's reclassification, during which they were classified as Group A instead of Group B. The judgment awarded backpay to Pressley in the amount of $11,271.75, to Datcher in the amount of $8,568, and to Large in the amount of $35,402.12.

Discussion

I.

On appeal, the college defendants first argue that the trial court erred by concluding that the policy requires that the instructor plaintiffs be classified as Group B instead of Group A. The college defendants argue that the chancellor of the ACCS has the authority to interpret the policy, that then Chancellor Gainous interpreted the policy in 1999 by issuing the credentialing document placing OAD instructors in Group A, that then interim president Anthony correctly relied on that credentialing document in placing the instructor plaintiffs in Group A, and that the trial court usurped Chancellor Gainous's authority by concluding that the instructor plaintiffs should be placed in Group B. As the college defendants note, § 16-60-111.5, Ala. Code 1975, provides that the chancellor of the ACCS "shall ... [i]nterpret the rules and regulations of the [B]oard [of Trustees of the ACCS] concerning the community and

technical colleges" such as Shelton State. As the college defendants further observe: "'"[A]n agency's interpretation of its own regulation must stand if it is reasonable, even though it may not appear as reasonable as some other interpretation."'" Ex parte Board of Sch. Comm'rs of Mobile Cty., 824 So. 2d 759, 761 (Ala. 2001) (quoting State Pers. Bd. v. Wallace, 682 So. 2d 1357, 1359 (Ala. Civ. App. 1996), quoting in turn Ferlisi v. Alabama Medicaid Agency, 481 So. 2d 400, 403 (Ala. Civ. App. 1985)). "An agency's interpretation of its own policy is controlling unless it is plainly erroneous." Ex parte Board of Sch. Comm'rs, 824 So. 2d at 761. The ACCS is indisputably a State agency, and the chancellor of the ACCS has the power to interpret ACCS policies. The college defendants argue that Chancellor Gainous "interpreted" the policy in this case by issuing the credentialing document that placed OAD instructors in Group A. The college defendants do not explain why Chancellor Gainous's merely placing the OAD instructors in Group A should be considered an agency interpretation that is due deference on appellate review; the record contains no rationale for Chancellor Gainous's decision. Assuming, without deciding,

that Chancellor Gainous "interpreted" the policy, we conclude, based on the information before us, that the placement of OAD instructors in Group A was plainly incorrect.

The policy provides, in pertinent part:

> "The credentials are organized according to teaching areas. The following groups are presented:
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> > "... Group A. This group of requirements shall be used for instructors teaching credit courses in the following areas: humanities/fine arts; social/behavioral sciences; natural sciences/mathematics; and in professional, occupational, and technical areas that are components of associate degree programs designed for college transfer. ...
> >
> > "... Group B. This group of requirements shall be used for instructors teaching credit courses in professional, occupational, and technical areas that are components of associate degree programs not usually resulting in college transfer to senior institutions."

Thus, instructors belong in Group A if they teach in "professional, occupational, and technical areas" that "are components of associate degree programs designed for college transfer." Conversely, instructors belong in Group B if they teach in "professional, occupational, and technical areas" that "are components of associate degree programs not usually resulting in college transfer to senior institutions." It is

undisputed that the only relevant "area" is OAD, the department in which the instructor plaintiffs teach or taught. Thus, we must determine of what type of associate-degree program OAD is a component. Considering the information before us, the answer is plain. Shelton State offers three types of associate degrees: an associate in arts degree ("AA degree"), an associate in science degree ("AS degree"), and an associate in applied science degree ("AAS degree"). According to Shelton State's college catalogue, the AA degree and the AS degree "are designed for students who plan to transfer to a college or university to complete a baccalaureate degree." Conversely, the AAS degree is "designed for students who plan to seek employment immediately upon earning the credential." The OAD course of study is one in which a student earns an AAS degree.

When the policy is viewed in light of the different degrees offered by Shelton State, it is evident that OAD instructors, like the instructor plaintiffs, should be classified as Group B instead of Group A. OAD is a part of the AAS-degree program, which is designed for students who plan to use the degree to "seek employment immediately after

earning" that degree. That corresponds with the description in Group B of an associate-degree program "not usually resulting in college transfer to senior institutions." An AAS degree in the OAD course of study does not fit the description in Group A of an associate-degree program "designed for college transfer." That description describes the AA and AS degrees instead, which "are designed for students who plan to transfer to a college or university to complete a baccalaureate degree."

The college defendants argue that OAD instructors, like the instructor plaintiffs, belong in Group A because, they say, the OAD teaching area itself has "components" that are "designed for college transfer." Those "components" are general classes that OAD students -- along with many other Shelton State students -- take that are designed to transfer to a college or a university, such as English Composition I and Microcomputer Applications. However, the question is not whether the OAD area itself has components, i.e., classes, designed for college transfer. Rather (keeping in mind that the parties agree that OAD is the relevant "area" in the policy), the relevant question is: Of what type of associate-

degree program is OAD itself a component? That is, OAD, not the particular classes in the program, is the "component" under the policy. The language of the policy readily demonstrates that. Group A consists of "[i]nstructors teaching credit courses in ... areas that are components of associate degree programs designed for college transfer." (Emphasis added.) Similarly, Group B consists of "[i]nstructors teaching credit course in ... areas that are components of associate degree programs not usually resulting in college transfer to senior institutions." (Emphasis added.) The trial court correctly concluded that the instructor plaintiffs belong in Group B.

II.

Next, the college defendants argue that, even if the instructor plaintiffs are properly included in Group B, the trial court erred in awarding the instructor plaintiffs retrospective relief, i.e., backpay, for the period following Anthony's reclassification of the them, during which they were classified as Group A. The college defendants argue that State immunity bars the award of retrospective relief, i.e., backpay, in this case. The college defendants do not argue

that State immunity bars the prospective relief of ordering that the instructor plaintiffs be placed in Group B, resulting in increased salaries.

A recent decision of this Court, Barnhart v. Ingalls, 275 So. 3d 1112 (Ala. 2018), is particularly helpful regarding the State-immunity issue in this case. In Barnhart, the named plaintiffs in a purported class action were former employees of a State agency, the Alabama Space Science Exhibit Commission ("the Commission"). The Department of Examiners of Public Accounts ("DEPA") conducted an audit of the Commission's records and found that the Commission had not complied with State statutes regarding the payment of longevity bonuses to State employees (§ 36-6-11(a), Ala. Code 1975) and the compensation of State employees for working certain State holidays (§ 1-3-8, Ala. Code 1975) (hereinafter collectively referred to as "the benefits statutes"). The Commission, however, disagreed with DEPA's determination that the Commission had not complied with the benefits statutes; the Commission contended that it was not subject to the benefits statutes pursuant to another statute. The former employees then sued the Commission and officers of the

Commission seeking, among other things, backpay for moneys previously earned but not paid because of noncompliance with the benefits statutes ("the retrospective-relief claim"). The trial court certified the former employees' claims for class-action treatment, and the Commission officers filed a petition for a writ of mandamus in this Court, which this Court treated as a notice of appeal. On appeal, the Commission officers argued that State immunity barred the former employees' retrospective-relief claim, i.e., the claim for backpay. In rejecting that argument, the Court in Barnhart thoroughly discussed the law of State immunity as it relates to retrospective relief:

> "The doctrine of State immunity derives from Ala. Const. 1901, Art. I, § 14, which provides that 'the State of Alabama shall never be made a defendant in any court of law or equity.' This Court has explained that, under § 14, not only do the State and its agencies have absolute immunity from suit in any court, but State officers and employees, in their official capacities and individually, also are immune from suit when the action against them is, in effect, one against the State. Phillips v. Thomas, 555 So. 2d 81, 83 (Ala. 1989). In Alabama Department of Transportation v. Harbert International, Inc., 990 So. 2d 831, 839 (Ala. 2008), this Court explained that whether a claim asserted against a State officer is effectively a claim against the State hinges on

> "'"whether 'a result favorable to the plaintiff would directly affect a contract or property right of the State,' Mitchell [v. Davis, 598 So. 2d 801, 806 (Ala. 1992)], whether the defendant is simply a 'conduit' through which the plaintiff seeks recovery of damages from the State, Barnes v. Dale, 530 So. 2d 770, 784 (Ala. 1988), and whether 'a judgment against the officer would directly affect the financial status of the State treasury,' Lyons [v. River Road Constr., Inc.], 858 So. 2d [257] at 261 [(Ala. 2003)]."
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> "'Haley [v. Barbour County], 885 So. 2d [783] at 788 [(Ala. 2004)]. Additionally, "[i]n determining whether an action against a state officer is barred by § 14, the Court considers the nature of the suit or the relief demanded, not the character of the office of the person against whom the suit is brought." Ex parte Carter, 395 So. 2d 65, 67-68 (Ala. 1980).'

"The Commission officers argue that this Court has previously applied these principles to hold that claims asserted against State officials seeking backpay allegedly owed are claims against the State and are therefore barred by the doctrine of State immunity. See, e.g., Alabama A & M Univ. v. Jones, 895 So. 2d 867, 876 (Ala. 2004) (holding that State immunity barred a university professor's claim seeking backpay associated with promised raises that did not materialize). The Commission officers accordingly argue that the trial court erred by certifying the retrospective-relief claim for class-action treatment; instead, they argue, the

> trial court should have recognized the immunity afforded them by § 14 and dismissed this claim.
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> "The named plaintiffs, however, argue that State immunity does not apply to the retrospective-relief claim because, although that claim seeks the payment of money damages, the claim is, they say, at its core, simply an attempt to compel State officials to perform their legal duty or a ministerial act -- that duty or act being the payment of money class members are entitled to by the clear terms of the benefits statutes -- and such actions are not barred by § 14. See, e.g., Ex parte Alabama Dep't of Fin., 991 So. 2d 1254, 1256-57 (Ala. 2008) (stating that 'certain actions are not barred by § 14' including 'actions brought to compel State officials to perform their legal duties' and 'actions to compel State officials to perform ministerial acts')."

Barnhart, 275 So. 3d at 1121-22.

The Court in Barnhart then discussed two other decisions relevant to the issue whether State immunity bars backpay -- Ex parte Bessemer Board of Education, 68 So. 3d 782 (Ala. 2011), and Woodfin v. Bender, 238 So. 3d 24 (Ala. 2017) (Main, J., with two Justices concurring and five Justices concurring in the result). The parties here also discuss those two decisions at some length. The Court in Barnhart explained:

> "[W]e begin our analysis by reviewing the holding of Ex parte Bessemer Board of Education, which was summarized in Alabama State University v. Danley, 212 So. 3d 112, 125-26 (Ala. 2016):
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> "'At issue in Ex parte Bessemer Board was § 16-22-13.1, Ala. Code 1975, which

provides the method of calculating percentage pay increases for public-education employees based on their years of experience. 68 So. 3d at 786. Jean Minor, a teacher in the Bessemer School System, sued, among others, the members of the Bessemer Board of Education in their official capacities, alleging that her statutory pay increase had been miscalculated. 68 So. 3d at 785. Minor sought backpay for the 2000-2001 fiscal year and sought to have her pay calculated correctly for the ensuing years pursuant to the guidelines in § 16-22-13.1. 68 So. 3d at 786. The board members, claiming immunity, moved for either a dismissal of the complaint or a summary judgment. The trial court entered a judgment dismissing all claims against the board members on the basis of sovereign immunity[, i.e., State immunity], but after Minor filed a motion to alter or amend the judgment, the trial court vacated its earlier judgment and entered a new judgment in favor of Minor. In doing so, the trial court found that the board members were not entitled to immunity because they had no discretion in paying Minor the correct salary increase provided in § 16-22-13.1. The board members sought a writ of mandamus from this Court directing the trial court to dismiss Minor's claims against them on the basis of immunity. 68 So. 3d at 788.

"'In denying the petition, this Court noted that Minor was entitled to bring an action to compel the board members to perform a legal duty or ministerial act and that Minor's salary increase involved "obedience to the statute; it does not involve any discretion." 68 So. 3d at 790. The issue in Ex parte Bessemer Board was

> not whether Minor was entitled to a salary increase; rather, the issue was simply whether the salary increase had been calculated correctly. Thus, Minor's action seeking the pay increase to which she was statutorily entitled was not an action seeking damages from the State but, rather, was an action to compel the performance of a ministerial act.
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> "'Those facts distinguish Ex parte Bessemer Board from this case. Minor sought payment of salary that she had already earned, but had not received because of an error in calculation, and sought to have her future salary calculated correctly; her action essentially was nothing more than a plea to the trial court to order the board to perform correct mathematical computations.'

"(Footnote omitted.) Thus, Ex parte Bessemer Board stands for the proposition that a claim for backpay will be allowed where it is undisputed that sum-certain statutorily required payments should have been made. In such instances, the defendant State officials had a legal duty to make those payments all along and, in finally doing so, they are not exercising discretion; rather, they are merely performing a ministerial act. 68 So. 3d at 790. Accordingly, such a claim is not truly a claim asserted against the State and is not barred by § 14. See [Alabama Dep't of Transp. v. Harbert [Int'l, Inc.], 990 So. 2d [831] at 845-46 [(Ala. 2008)] (explaining that a court order requiring State officials to pay funds undisputedly owed by the State does not actually affect the financial status of the State because the funds at issue do not belong to the State and the State treasury is in no worse a position than if the State officials had originally performed their duties and paid the funds).

> "The Commission officers argue, however, that Ex parte Bessemer Board is distinguishable because it was undisputed in that case that the plaintiff should have been given the appropriate statutory pay increase, but, they argue ... whether the Commission is subject to the benefit statutes is disputed in this case. ... In support of this distinction, the Commission officers cite Woodfin v. Bender, 238 So. 3d 24 (Ala. 2017) (per Main, J., with two Justices concurring and five Justices concurring in the result), in which this Court reviewed a trial court's judgment awarding the plaintiff school employees monetary damages in connection with their claim that their employing board of education had failed to assign them to the proper 'step' when it adopted a new salary schedule in 2004, thus resulting in reduced wages over the following years. The plaintiff school employees argued that the award entered in their favor by the trial court was proper under Ex parte Bessemer Board; however, this Court distinguished that case by noting that in Ex parte Bessemer Board there was no dispute that the plaintiff should have been paid the funds she claimed were owed her, but in Woodfin there was 'a legitimate dispute' as to whether the defendant board-of-education officials had an actual duty to assign the plaintiff school employees to steps in accordance with the plaintiff school employees' interpretation of the salary schedule. 238 So. 3d at 32. Therefore, the payment of the funds to which the plaintiff school employees claimed they were entitled was not merely a ministerial act. Id. Accordingly, § 14 applied, the defendant board-of-education officials were entitled to State immunity, and the trial court's judgment was void for want of subject-matter jurisdiction. Id."

Barnhart, 275 So. 3d at 1122-24 (footnote omitted).

The Court in Barnhart then concluded that the Commission officers were not entitled to State immunity. In doing so,

this Court determined that, if the benefits statutes required the former employees to be paid the compensation that they had not been paid, the Commission officers simply had to follow that requirement and lacked the discretion to not follow it:

> "Upon analysis, it is evident that the facts in the instant case are more akin to Ex parte Bessemer Board than to Woodfin. At its core, Woodfin was a dispute regarding a school-board policy and how and whether that policy applied to the plaintiff school employees; this Court ultimately held that the defendant board-of-education officials had discretion in how 'they interpreted and implemented the policy' and that they could not 'be compelled to accept the plaintiffs' interpretation.' 238 So. 3d at 33. See also McDowell-Purcell, Inc. v. Bass, 370 So. 2d 942, 944 (Ala. 1979) ('The writ of mandamus will not lie to compel [a State official] to exercise his discretion and apply the ascertained facts or existing conditions under [a] contract so as to approve payment to [a plaintiff] according to [the plaintiff's] interpretation of the contract rather than [the State official's].'). In contrast, the issue in this case, as in Ex parte Bessemer Board, is one of statutory interpretation -- does a statute entitle the plaintiffs to compensation they did not receive. As this Court explained in Ex parte Bessemer Board:
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> > "'[I]t is undisputed that the Bessemer Board members have a statutory duty to pay [the plaintiff] the appropriate salary increase under § 16-22-13.1, Ala. Code 1975. That statute specifically provides that a public school teacher with [the plaintiff's] years of experience being paid under the State minimum-salary schedule shall receive a 5.5% increase in salary beginning with the fiscal year 2000-2001.

> The basis for this calculation is at issue in this lawsuit. The amount of the salary increase the Bessemer Board members must pay [the plaintiff] involves obedience to the statute; it does not involve any discretion. The Bessemer Board members have a legal duty to pay [the plaintiff] the correctly calculated salary increase under the statute and in doing so they are performing a ministerial act. Therefore, [the plaintiff's] action against the Bessemer Board members in their official capacities is not an action "against the State" for § 14 purposes; thus, the Bessemer Board members are not entitled to § 14 immunity from [the plaintiff's] action to compel them to fulfill their statutory duty to pay her the appropriate salary increase.'

"68 So. 3d at 790-91 (emphasis added). Thus, if the benefit statutes obligated the Commission officers to pay the [former employees] compensation they were not paid, the Commission officers had no discretion to avoid that requirement; obedience to the statute is mandatory. Any confusion the Commission officers might have had regarding the interpretation of the benefit statutes, however reasonable, is ultimately immaterial because that confusion cannot serve as the basis for avoiding a statutory requirement. In sum, if it is ultimately determined that the [former employees] should have received additional compensation pursuant to the benefit statutes, the Commission officers had a legal duty to make those payments all along, and in finally doing so they are merely performing a ministerial act. Accordingly, the [former employees'] retrospective-relief claim is not barred by § 14."

Barnhart, 275 So. 3d at 1124-25.

In light of Barnhart and the cases discussed therein, the key issue here is whether the college defendants had the discretion to place the instructor plaintiffs in Group A. Because in essence the college defendants ultimately rely on then Chancellor Gainous's 1999 decision classifying OAD instructors as Group A in the credentialing document, the more precise issue is whether Chancellor Gainous was acting within his discretion in interpreting the policy to place the OAD instructors in Group A. If he was acting within his discretion in doing so, the college defendants would be entitled to State immunity regarding the claims for backpay. As the college defendants note, under § 16-60-111.5, the chancellor of the ACCS "shall ... [i]nterpret the rules and regulations of the [B]oard [of Trustees of the ACCS] concerning community and technical colleges." Thus, the chancellor has discretion to interpret ACCS policies generally. However, as discussed in Part I of this opinion, that discretion has limits. "A board of education must comply with the policies it adopts," and "[a]n agency's interpretation of its own policy is controlling unless it is plainly erroneous." Ex parte Board of Sch. Comm'rs, 824 So.

2d at 761. In this case, applying the policy to the undisputed relevant facts, we conclude that the policy plainly indicates that the instructor plaintiffs belong in Group B. Thus, neither Chancellor Gainous nor any of the college defendants who followed him and who relied on his credentialing document issued in 1999 had discretion to place OAD instructors in Group A. Because the college defendants lacked discretion to classify the instructor plaintiffs as Group A, the claims for backpay against them in their official capacities are not barred by the doctrine of State immunity. Barnhart. Accordingly, the trial court did not err in awarding backpay to the instructor plaintiffs.

III.

Next, Anthony, the former interim president of Shelton State, argues that the trial court erred in entering a judgment against her in her individual capacity. As noted, Anthony was sued in both her individual capacity and her official capacity. When Anthony left her position as interim president, under Rule 25(d)(1), Ala. R. Civ. P., her successor was automatically substituted as a defendant with respect to the official-capacity claims alleged against her. However,

the purported individual-capacity claims against her remained pending. The key issue is whether those remaining claims against Anthony were actually individual-capacity claims or were in fact official-capacity claims mislabeled as individual-capacity claims. Anthony again cites Barnhart, in which we explained that the nature of a claim is crucial in determining whether it is actually an official-capacity claim or an individual-capacity claim. The former employees in Barnhart alleged claims of negligence/wantonness and breach of fiduciary duty against Commission officers purportedly in their individual capacities ("the individual-capacity claims"), in addition to the retrospective-relief claims discussed above in Part II. The Court in Barnhart discussed the nominal individual-capacity claims:

> "In Haley v. Barbour County, 885 So. 2d 783, 788 (Ala. 2004), this Court explained:
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> > "'"In determining whether an action against a state officer or employee is, in fact, one against the State, [a] [c]ourt will consider such factors as the nature of the action and the relief sought." Phillips v. Thomas, 555 So. 2d 81, 83 (Ala. 1989). Such factors include whether "a result favorable to the plaintiff would directly affect a contract or property right of the State," Mitchell [v. Davis], 598 So. 2d [801,] 806 [(Ala. 1992)], whether the

> defendant is simply a "conduit" through which the plaintiff seeks recovery of damages from the State, Barnes v. Dale, 530 So. 2d 770, 784 (Ala. 1988), and whether "a judgment against the officer would directly affect the financial status of the State treasury," Lyons [v. River Road Constr., Inc.], 858 So. 2d [257] at 261 [(Ala. 2003)].'

"Thus, this Court noted in Haley that it would determine whether an action nominally asserted against a State official was truly one against the State based on general factors such as the nature of the action and the relief sought; however, the Court thereafter listed several specific factors for consideration, all of which related to the issue of damages and whether any damages that might be awarded would flow from the State. Subsequent cases involving actions against State officials and questions regarding the applicability of State immunity have also focused on the damages being sought, on occasion to the exclusion of other factors. See, e.g., Ex parte Bronner, 171 So. 3d 614, 622 n. 7 (Ala. 2014) ('[A]ny action against a State official that seeks only to recover monetary damages against the official "in [his or her] individual capacity" is, of course, not an action against that person in his or her official capacity and would of necessity fail to qualify as "an action against the State" for purposes of § 14.'). Inasmuch as the named plaintiffs in the present case have made it clear that they are seeking personal payment from the Commission officers for the tortious misconduct alleged in the individual-capacities claims -- and such a judgment would therefore have no effect on the State treasury -- it might seem, based on Ex parte Bronner, that the individual-capacities claims are not claims against the State and, accordingly, are not barred by § 14. However, regardless of the damages being sought, the

nature of those claims requires us to hold otherwise.

"The individual-capacities claims asserted by the named plaintiffs include a negligence claim and a breach-of-fiduciary-duty claim. A necessary element of each of those claims is whether, in their individual capacities, the Commission officers owed a duty to the putative class members. See Aliant Bank v. Four Star Invs., Inc., 244 So. 3d 896, 907 (Ala. 2017) (noting that one of the elements of both a negligence claim and a breach-of-fiduciary-duty claim is the existence of a duty to the plaintiffs). In fact, the named plaintiffs' complaint alleges, with regard to the negligence claim, that the Commission officers 'owe[d] a duty to [Commission] employees to compensate them in accordance with Alabama law, including the mandates of [the benefit statutes]' and, with regard to the breach-of-fiduciary-duty claim, that the Commission officers 'owe[d] a fiduciary duty to [Commission] employees to act at all times with the utmost care, honesty, loyalty, and fidelity in all of [the Commission's] actions.' It is clear, however, from the named plaintiffs' statement of those claims that the duties allegedly breached by the Commission officers were owed to the putative class members only because of the positions the Commission officers held and that the Commission officers were, accordingly, acting only in their official capacities when they allegedly breached those duties by failing to give effect to the benefit statutes. Stated another way, the Commission officers had no duties in their individual capacities to give effect to the benefit statutes; rather, any duties they had in that regard existed solely because of their official positions in which they acted for the State. See also Aliant Bank, 244 So. 3d at 908 ('The determination whether a duty exists is generally a question of law for the court to decide.'). Accordingly, the individual-capacities claims are, in effect, claims against the State that are barred by § 14. The nature of the

> individual-capacities claims requires this holding, and any previous decisions of this Court containing language indicating that the State immunity afforded by § 14 cannot apply when monetary damages are being sought from State officers in their individual capacities -- such as the dicta quoted above from Ex parte Bronner -- are overruled to the extent they support that proposition."

Barnhart, 275 So. 3d at 1125-27 (footnote omitted).

As was the case in Barnhart, the nature of the nominal individual-capacity claims against Anthony indicates that those claims were not actually individual-capacity claims. The instructor plaintiffs allege that Anthony, as the then interim president of Shelton State, had a duty to classify them as Group B under the policy and that she breached that duty by reclassifying them as Group A. However, Anthony owed such a duty to the instructor plaintiffs only because of her position as interim president of Shelton State; thus, she was acting only in her official capacity when she moved the instructor plaintiffs from Group B to Group A. That is, Anthony had no duty in her individual capacity to apply the policy; rather, her duty existed only because of her official position in which she acted for the State. Thus, there were in fact no individual-capacity claims pending against Anthony on which the trial court could have entered a judgment against

her. Of course, there were no official-capacity claims pending against her either, because, under Rule 25(d)(1), when Anthony left her position as interim president, her successor was automatically substituted for her with respect to the official-capacity claims alleged against her. Thus, it is evident that there are in fact no remaining claims against Anthony, and, thus, a judgment should not have been entered against her.

Conclusion

We reverse the judgment insofar as it was entered against Anthony. We affirm the judgment in all other respects, and we remand the case for proceedings consistent with this opinion.

AFFIRMED IN PART; REVERSED IN PART; AND REMANDED.

Parker, C.J., and Shaw, Mendheim, and Mitchell, JJ., concur.