

Commonwealth Of Kentucky

Court of Appeals

NO. 2000-CA-001294-MR

WILLIE DEAN THOMAS

APPELLANT

v. APPEAL FROM LARUE CIRCUIT COURT
HONORABLE LARRY RAIKES, JUDGE
ACTION NO. 97-CI-00049

WILLIAM TWYMAN, Individually;
WILLIAM TWYMAN, Superintendent,
LARUE COUNTY SCHOOL DISTRICT;
and THE BOARD OF EDUCATION OF
LARUE COUNTY, KENTUCKY

APPELLEES

OPINION

AFFIRMING

** ** * * * * *

BEFORE: EMBERTON, CHIEF JUDGE; BUCKINGHAM, JUDGE; AND
HUDDLESTON, SENIOR JUDGE.¹

EMBERTON, CHIEF JUDGE. This action arises from the non-renewal of Willie Dean Thomas's continuing contract of employment as the assistant principal of the Larue County Middle School and from her assignment to a teaching position at a privately owned and operated group home in Larue County for mentally retarded and

¹ Senior Judge Joseph R. Huddleston sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580. This opinion was prepared and concurred in prior to the expiration of the Special Judge assignment on November 25, 2003.

developmentally disabled children. She filed this action alleging claims based on contract, tort and civil rights violations, all of which were summarily dismissed by the trial court.

In 1994, Thomas was hired to fill the position of assistant principal at Larue County Middle School under a continuing contract of employment. She served in that capacity throughout the 1994-1995 and the 1995-1996 school years. However, on February 9, 1996, the superintendent of the Larue County School District, William Twyman, orally informed Thomas that her contract would not be renewed for the 1996-1997 school year, which he confirmed by letter dated February 12, 1996. The reason stated in the letter for non-renewal of the contract was that her effectiveness as an administrator was such that it made the action necessary. Twyman also informed Thomas that she would be reassigned as a teacher in the Larue County schools.

Although between February and August 1996, Thomas applied for open positions in the Larue County School District, Twyman did not forward her applications to the principals or to the Site Based Decision Making Councils. By letter dated July 9, 1996, Thomas was informed that her teaching assignment for the 1996-1997 school year would be as an "alternative school collaborative teacher" at a privately owned and operated school known as The Life Connection.

Thomas brought this action against Twyman in his official capacity as superintendent of the Larue County School District, against Twyman individually, and against the Board of Education of the Larue County School District. The action seeks injunctive relief in the nature of reinstatement with back pay for attendant benefits, as well as compensatory and punitive damages. Thomas alleges that Twyman improperly terminated her as assistant principal; that he failed to follow statutory and regulatory procedures prescribed for demotion and assignment of teaching personnel; and that she was improperly and illegally assigned to The Life Connection by Twyman. Thomas also asserts that her civil rights, as well as her contract rights, were violated. As a result of these violations she contends she has suffered, and continues to suffer, monetary loss, mental distress, anxiety, embarrassment, humiliation, and damage to her reputation and career. She maintains that, therefore, she is entitled to an award of compensatory and punitive damages, as well as reinstatement to her former position as assistant principal with back pay and attendant benefits.

Thomas contends that her assignment to The Life Connection was "wrongful" because it is not a "common" school within the school district. "A common school is a school taught in a district laid out by authority of the school law, under the control of trustees elected under those laws, by a teacher

qualified according to law to teach.”² She argues that since The Life Connection is neither funded nor controlled by the local school district, her assignment was unauthorized. KRS³ 161.760 makes it clear that a teacher either under a limited or a continuing contract is employed in the school district and not in a particular school or position. Thus, even if this court accepts that the definition of a “common school” excludes The Life Connection as such a school, we fail to find anywhere in KRS 161.760, or other applicable statutes, where a common school is referred to, and in fact, it refers only to employment in the school district. The Life Connection is not only physically located in the Larue County School District but the district supplies instructors and its residents are counted as students in the school system. We agree with the trial court that Thomas’s assignment to The Life Connection was employment in the school district, and therefore, an authorized assignment.

In the letter dated February 12, 1996, Thomas was informed that she was being demoted from her administrative position to a teaching position. KRS 161.720(9) defines a demotion as “a reduction in rank from one position of the school district salary schedule to a different position on that

² Hodgkin v. Board for Louisville and Jefferson County Children’s Home, Ky., 242 S.W.2d 1008, 1010 (1951).

³ Kentucky Revised Statutes.

schedule for which a lower salary is paid." Thomas's continuing contract of employment provides that her salary as a teacher is determined by the salary schedule for the Larue County School District. The schedule is based on the teacher's rank and corresponding years of experience. Although the February notice did not specifically state the exact amount of Thomas's future salary, we can assume she was aware of her employment contract and of the salary schedule. Notice of a proposed demotion is necessarily notice of a reduction in salary and reassignment.⁴

Thomas also complains that the February notice did not state the position to which she was assigned. Citing KRS 161.760(2) she contends that notice of her assignment to The Life Connection had to be received prior to July 15, 1996. The record contains a letter dated July 9, 1996, from Twyman addressed to Thomas at her home address informing her of her assignment to The Life Connection. According to Twyman's testimony, he did not actually mail the letter but it was mailed by an employee in his office. Thomas denies that she received the letter until August 7, 1996. KRS 161.760(2), in effect at the time of Thomas's demotion, provides:

Transfer or change in appointment of teachers after July 15 shall be made only to fill vacancies created by illness, death, or resignations; to reduce or increase

⁴ See Miller v. Board of Education of Hardin County, Ky. App., 610 S.W.2d 935, 938 (1980)(superseded by statute on other grounds, Estreicher v. Board of Ed. of Kenton County, Ky., 950 S.W.2d 839 (1997)).

personnel because of a shift in school population; to make personnel adjustments after consolidation or merger; or to assign personnel according to their certification pursuant to KRS 161.010 to 161.120 provided, in the latter instance, that the teacher was appointed to a position outside his or her field of certification in the previous year.

It does not state that a teacher must be informed of the specific location of an assignment prior to July 15. When read in conjunction with subsection (4) of that same statute, the plain meaning is that the teacher need only be notified of a transfer or reappointment to a new position in the school district for the upcoming school year by July 15. Thus, assuming that Thomas did not receive the letter until after July 15, 1996, notice of her demotion and transfer occurred well before the July 15 deadline.

In the February 12th letter Twyman informed Thomas that her demotion was the result of her "effectiveness as an administrator." In Board of Education of McCreary County v. Williams,⁵ this court held that the charges against a teacher must be "specific enough for him to prepare a defense."⁶ Thomas was an administrator with less than three years experience, and therefore, there is no administrative appeal process provided to her as provided for in KRS 161.765(2) and the preparation of a

⁵ Ky. App., 806 S.W.2d 649 (1991).

⁶ Id. at 650.

defense to her demotion would be futile. Of course her demotion could not be for any reason which would violate either our Kentucky or United States Constitutions.⁷

The letter was sent as a follow-up to a meeting between Twyman and Thomas at which Thomas admits she was told that "confidence in her as an administrator was lost." Twyman was sufficiently specific when he informed Thomas of the reason for her dismissal. Thomas was given specific grounds which she could either accept or, if she believed the reason to be other than that stated, she had sufficient information to either confirm or contradict the reason. There is nothing in the case or statutory law which requires the notice to include specific allegations but requires only that the reason for the dismissal be stated.

Thomas's final statutory claim is that under KRS 160.345 Twyman was required to forward to the principal at the Larue County Middle School applications she made for vacant positions at the school. Most recently, in Robinson v. Back,⁸ this court considered whether the statute requires a superintendent to provide the Site Based Decision Making Council additional applicants for a principalship when qualified applicants are available and when requested by the council. In

⁷ Miller, supra, at 937.

⁸ En Banc (Court of Appeals No. 2001-CA-001922-MR).

that case, the superintendent sent only four names to the council, and although other applicants were available, refused the request of the council for additional names. We held that if applicants qualified according to statute were available, once requested by the council, the superintendent is required to send all such applications to the council.

In this case, Thomas applied for a teaching position which the principal, in consultation with the Site Based Decision Making Council, is authorized to fill.⁹ As in the Robinson case where the council is responsible for hiring, the superintendent is required to submit additional applications only when requested. An affidavit by Brent Holsclaw, principal of Larue County Middle School at the time Thomas's applications were submitted, stated that although Twyman informed him that Thomas had applied for a vacant teaching position, he informed Twyman that he did not want her application since he found a desirable candidate and did not want Thomas to return to the middle school. It is undisputed that at no time did Holsclaw request any additional applications, and in fact, discouraged Twyman from forwarding Thomas's application. There was no violation of KRS 160.345.

As to Thomas's remaining claims, all have their roots in the various alleged statutory violations which we have found

⁹ KRS 160.345.

without merit. There are no constitutional rights implicated in the termination or demotion of an administrator with less than three years of service.¹⁰ There is no allegation that her demotion was for a constitutionally impermissible reason and therefore no basis for the remainder of Thomas's claims.

We need not address any issues of immunity since we find, on other grounds, no basis for Thomas's claims. The judgment of the Larue Circuit Court is affirmed.

ALL CONCUR.

¹⁰ See Hooks v. Smith, Ky. App., 781 S.W.2d 522 (1989).

BRIEF AND ORAL ARGUMENT FOR
APPELLANT:

John S. Hoffman
STOLL, KEENON & PARK, LLP
Henderson, Kentucky

BRIEF FOR APPELLEES:

John R. Martin, Jr.
LANDRUM & SHOUSE
Louisville, Kentucky

James T. Whitlow
WHITLOW & SCOTT
Hodgenville, Kentucky

Sun S. Choy
MORGAN & POTTINGER, P.S.C.
Louisville, Kentucky

ORAL ARGUMENT FOR APPELLEES:

Sun S. Choy
Louisville, Kentucky