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1. Did City High's (CH) termination of Paige (P) without a hearing violate the procedural due process of the 14th A?

State Actor

An individual may not sue a state in federal court, however, may sue a state actor or state official.

Here, in order for P to claim that CH has violated the procedural due process clause, she must establish that CH is in fact a state actor. CH is a public school in State X who has entered into a valid K with the State where teachers' salaries will be withheld if a school falls below established standards. The newly established legislation addresses State X's failing public schools, and has incorporated clear standards and procedures for how CH and other public schools must apply the new law. This shows that CH is acting in place of State X and under their control and direction. Moreover, public schools in State X are governed by State X's government.

Thus, CH is a state actor and P may challenge her termination.

14th A: Procedural Due Process Clause

The 14th A procedural DPC is applicable to the states. The procedural due process (PDP) provides individuals protection of their life, liberty, and property. The government may interfere these individual rights with proper procedure, which requires adequate notice and an adequate hearing. The court will apply a balancing test will apply to determine whether proper and adequate procedures were applied prior to the infringement on such rights. The balancing test factors in the (1) importance of the individuals interest at issue, (2) the risk of error involved if proper procedure is not given, and (3) the additional costs and burdens placed on the government if more procedure is provided.

Here, Paige (P) is a probationary teacher at CH, who can be terminated for any reason upon written notice within the first year of employment (applicable to all probationary teachers). Employment can be argued to be a liberty under the procedure DP clause because it is the manner in which individuals earn their livelihood. For these reasons, P can challenge that her liberty to be employed and not terminated for any reason infringes upon the procedural DP clause. Thus, an infringement upon a liberty under the procedural DP requires adequate notice and adequate hearing.

Although, there are no facts to indicate whether P was aware of the termination policy of probationary teachers; however, for purposes of analysis, we will assume she was aware of this fact. P's termination was at-will with CH; that is, either party may end the termination for any reason. Moreover, P's at-will employment with CH was only for up to the 1-year mark, which shows that the school had implemented standards, restrictions, and processes to ensure an abuse of discretion was not in play and that the State X's new law was fair and reasonable.

First, P was served with written notice that CH was terminating her employment, and refunded the money withheld with interest. This shows that the school provided P adequate notice as promised in her at-will employment standards/agreement. Thus, P received adequate notice such that the procedural DP clause was not violated.

Second, the court will turn to the balancing test factors in order to determine whether P's termination without reason required more procedure or whether the standards set in place were sufficient. Thus, the court will apply the applicable balancing test described above.

Balancing Test:

Importance of P's interest: The higher the importance of the interest, the more process it should receive. Here, P's interest is her job at CH as a probationary teacher, which is an incredibly important interest as it is how individuals earn a livelihood and provide for their families. For these reasons, P's interest may be found to require more procedures. Thus, P's interest is regarded as important and the court may consider more procedures are necessary.

Risk of error: The higher the risk of error which is present requires a higher standard of processes. Here, the risk of error involved is that P loses her job and is unable to find another in order to earn her salary for purposes of livelihood. However, the facts indicate that P is a **highly-regarded** probationary teacher and has only been with CH just short of a year. This shows that P is likely to be able to find another job at another public school with the same or similar job because she is highly-regarded, which means that she is well-liked and respected, and thus, likely to be hired again. Therefore, the risk of error is not substantially high, and more process will not be found necessary.

Additional costs + burdens on State X: The court will look to see if the two factors above show that the additional costs and burdens that come with adding in more processes are worth expending such resources for. Here, the additional costs, time, and burden is not likely to be substantial, as it would seem reasonable to allow P to be heard, and to hear CH's own reasons for her termination. However, since CH's employment agreement with P was at-will, they do not have to provide a reason, and thus, the additional resources expended may be considered a waste and unnecessary. If P was aware of CH's 1-year policy, then she was aware that she could be fired for any reason, and by working at CH, she implicitly agreed to the agreement. Therefore, additional costs and burdens on State X are not necessary and in fact, wasteful.

Therefore, the balancing test finds that more procedure is not required because although P's interest is highly important to her livelihood, the risk of error is very

slight since she can find other, similar employment quickly as she is a highly-regarded teacher, and thus, the additional resources of adding more procedure would be a waste in P's situation.

In conclusion, CH termination of P without a hearing did not violate the procedural DP clause because they provided adequate notice and implemented adequate procedures.

2. How should the court rule on State X's and Attorney General's motion?

Standing

In order to be heard in federal court, a plaintiff needs a case or controversy. This requires a plaintiff(s) to have standing, which is established by an (1) actual, imminent injury, (2) that the state actor caused the plaintiff's injury, and (3) redressibility; such that the injury may be fixed or redeemed. Additionally, organizational standing may be found if (a) if its individual members have standing, (b) if the injury is related to the organization's primary purpose, and (c) if its members need not participate; that is, the redressibility element would remedy all individuals' injuries.

Organizational Standing?

Here, B and P sued on grounds of the State X's new legislation and its application to CH. They have been outspoken opponents of the new law by appearing at various community and school board meetings throughout the school year.

These facts do not indicate an official organization, nor an organization purpose, however it may be presumed that there are many opponents since B and P have been outspoken opponents at all of these various community meetings.

Presumably, if there was an organization they were standing in for against this new law, such as all the public school teachers, then the **organization's purpose** would be to protect teacher rights to employment, reasonable

termination, and pay.

However, the facts indicate that State X has a valid K with the public school teachers specifically, which shows that teachers may be able to choose to participate in this new legislation. If B and P can show that the contract was forced upon all public school teachers and no option to opt out, then they be be more likely to show reason for **organizational standing on behalf of all the public school teachers**, which would all have **individual standing** in that case. (discussed further below)

Further, the ndividual members would not be able to claim damages as that would require all public school teachers to participate in the suit. Instead, if organizational standing was found, the parties may only claim injunction relief as that would be able to remedy all individual members in the same way; such that the new law be struck down.

Therefore, there is no official organizational standing as the facts do not indicate an organization or an official purpose. In the case, there was an organization P and B were standing in for, all elements would be met, assuming standing of P and B are also met. (below)

Standing re: P + B:

Actual, Imminent Injury

Paige: Here, P is likley to claim that her actual, imminent injury is that she was terminated from her job, which is how she earns her livelihood. Moreover, that she was not given reason for her termination, which is does not provide her adequate process under the procedural DPC, and thus, violating her US Constitutional rights. However, as explained above, her alleged injury may not suffice since she is a highly-regarded probationary teacher and is likely to be able to find a job else where within a short period of time. Further, she received interest from the money refunded, which can provide her with additional

resources during the time she looks and finds a replacement job of the same or similar caliber.

Thus, the court is not likely to find P has an actual, imminent injury. However, mootness exception may be considered below.

Bob: Here, B has been a teacher at CH for the past 3 years and cannot be terminated upon receiving written notice and for any reason because he has passed his 1-year at-will mark. However, B may claim that withholding his salary is an injury, since that is how he earns his livelihood. This may be a valid and actual injury, if he can prove such damages have occurred or are likely to occur. State X and AG may argue that the new law only applies to the teachers who contracted to be apart of the new program, thus B is not required to participate. However, there are no facts to indicate such is an option.

Thus, B has proved an actual, imminent injury on the grounds of withheld wages since he cannot take his earnings home to take care of necessities and his livelihood.

Causation

P: Here, since P has not established an actual, imminent injury, she need not prove causation. However, in regards to her termination, State X is likely to suggest that even if P had received more procedure on the matter, she still would have been fired for valid reasons, and still would not have a job at CH. Therefore, the new law was not the cause of P's termination.

Bob: Here, B must show that State X's legislation that is being applied to the CH where he works is the cause of his actual or imminent injury; such that the withholding the new law requires is what has caused his injury he has suffered. If B's salary is in fact being withheld, then the new law is the cause of

his injuries of not being able to take spend his earnings on his necessities. Thus, causation is met.

Redressibility

_____P: Here, P will argue that more reinstating her employment will redress her injury of the termination. However, CH is not required to do so as an at-will contract allows either party to terminate the employment for any reason. Moreover, P has not suffered damages since she is likely to find a new job within a short period since she is a highly-regarded teacher and she received her money **with interest** which may cover the period in which she is looking for a new job. Further, an injunction may or may not redress her reinstatement at CH since they may have terminated her regardless of the new law.

B: Here, B has not been fired, thus no redressibility applicable. However, if the injunction strikes down the new law, then B will be able to take his salary home and take care of his necessities and livelihood as expected to be the case through employment and salary. Thus, striking down the legislation via injunctive relief would redress B's injury.

In conclusion, redressibility may be provided for B if his salary is withheld at the moment and may be withheld at any time without him being able to object to his participation. However, there is no redressibility for P under her circumstances.

Mootness

A case or controversy may not be moot. That is, the injury is not longer present at the time and throughout the litigation process. However, if a case or controversy is moot or will be moot by the time litigation ends, but is likely and able to reoccur again, then the claim is not moot. (i.e. pregnancy only lasts 9 months, litigation lasts much longer, but likely to reoccur).

Here, P has a strong argument that although she does not have an actual and present injury (other than being terminated at-will), it is very likely and possible for her to continuously get terminated within her first year of any job she gets as a probationary teacher at a public school in State X. Additionally, any public school she finds a job at may also be able to withhold her wages, which means this imminent injury can also repeat itself.

Therefore, P's claim is not moot, since her injury or likelihood of injury is able to repeat itself over in the near future.

In conclusion, both P and B have standing and their claims will not constitute a moot case or controversy as they are very likely to reoccur in the future, and as long as this new law is implemented.

11th A - State Actor

The 11th A provides sovereign immunity, which means that individuals cannot sue States in court. However, the 11th A does not apply to local governments and state officials. In addition, a state actor may be identified by entanglement of a private actor and the state or a private or non-government actor acting for the benefit of the state and under its control and direction.

Here, State X is a state and thus, may not be sued in federal court on the grounds of the 11th A.

However, State X has entangled itself with public school teachers via a valid K in order to implement their new law which addresses its failing public schools. The public school teachers work at CH, a public school in State X where the new law has been implemented and salary withholding has begun. This shows that by CH and its employees implementing State X's law, they are acting for the benefit of not only themselves, but for the state's public school system, and it is under State X's control and direction as the new law has many standards and

restrictions on how it is to be implemented.

Thus, State X has entangled itself with private actors, the teachers of the public schools, like CH, and thus the schools may be sued in federal court for acting as a state actor of State X.

In addition, the attorney general (AG) works as a state actor for State X, thus is a state actor and may be sued by P.

Therefore, the court should grant State X's motion to dismiss on grounds of the 11th A (CH, its proponent teachers, and AG are state actors of State X, whom may be sued in place of State X itself) and deny AG's motion to dismiss on grounds of standing.

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