25-6048 ORIGINAL

(Related to No. 20-cv-00489;

No. 23-3203

IN THE
Supreme Court of the United States

MARK BRENTLEY SR.

v.

Petitioners,

CITY OF PITTSBURGH, MIKE GABLE, WILLIAM PEDUTO, TYRONE CLARK, CYNTHIA MCCORMICK and LINDA JOHNSON-WASLER,

Respondents.

On Petition for A Writ of Certiorari to the Supreme Court of Pennsylvania Appeal from the Federal Third Circuit

PETITION FOR A WRIT OF CERTIORARI

Informal

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QUESTIONS PRESENTED

1. WHETHER THE FEDERAL COURT HAS JURISDICTION OVER THE CIVIL SERVICE COMMISSION
2. CAN YOU APPEAL THE CIVIL SERVICE COMMISSION IN FEDERAL COURT BASED ON THE 14TH AMENDMENT PROPERTY LOSS?

PARTIES TO THE PROCEEDING

PETITIONER,

PETITIONERS, MARK BRENTLEY SR.

RESPONDENTS,

CITY OF PITTSBURGH, MIKE GABLE, WILLIAM PEDUTO, TYRONE CLARK, CYNTHIA MCCORMICK AND LINDA JOHNSON-WASLER,

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PETITION FOR A WRIT OF CERTIORARI

Petitioners Mark Brentley Sr. respectfully petition for a writ of certiorari to review the judgment of the Supreme Court of Pennsylvania in this case.

vi.

JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. § 1254. The petition is timely filed within 90 days of the decision below. The Western Pennsylvania District Court issued its decision on November 17, 2023, which was affirmed by the Appellate Court on October 11, 2024, and denied

STATEMENT OF THE CASE

1. Facts

The Plaintiff, Mark Brentley, Sr. accepted employment with the City of Pittsburgh on February 1985 as a laborer and promoted to foreman in July 2014. For over thirty-two (32) years in that position, in Public Work divisions The Plaintiff was located in the traffic division. The Plaintiff was also requested to supervise Citywide graffiti removal program, which consists of graffiti and the removal of paint throughout the city of Pittsburgh. The Plaintiff filed a grievance requesting compensation for performing the additional duties were attached to regular foreman duties. The Plaintiff filed a complaint to the Human Relations Commission and it was a dual file a Complaint with EEOC on August 4, 2017. After the Plaintiff filed his complaint the City of Pittsburgh began to retaliate by suspending the Plaintiff for five days pending termination. The Plaintiff was directed to sign one of four different contracts/agreements during this process, the first Alternate to Discharge, EAP Agreement, Last Chance Agreement and Owen Sullivan Resolution all reducing his right to due process. The Plaintiff signed the Last Chance Agreement but stated he was signing it under duress.

The Plaintiff chose this course due to the fact that the Last Chance Agreement state he was admitting to being a substance abuser and Defendants refused to allow the Plaintiff legal consultation although the agreement stated "I fully understand the conditions in this letter and have afforded the opportunity, prior to signing it, to ask questions about it and to review it with anyone I choose" The Plaintiff was denied the opportunity to take the agreement to his attorney after he requested to do so.

The Defendants rejected the Last Chance Agreement due to the Plaintiff's signing conditions. The Plaintiff was terminated on March 27, 2019 on the Defendant stated "Mr. Brentley signed the Last Chance Agreement under duress and because he stated 'under duress, ' he was therefore terminated effective immediately because he did not comply with the instructions of the Civil Service Commission." The Civil Service Commission had rendered the agreement LCA moot and therefore remanded the City of Pittsburgh's decisions to terminate Brentley, subject to suit at the District Court.

ARGUMENT
II. FACT

FEDERAL COURT HAS JURISDICTION OVER THE CIVIL SERVICE COMMISSION

The Appellate Court reviewed Brentley's wrongful termination and Discrimination claim. Liberally construed, this claim alleges that Brentley's procedure due process rights were violated because he was not afforded a hearing in the time between of the Commission's decision and his second termination. The Appellate Court concluded that Brentley's failure to appeal the Commission's decision was fatal to this claim."

"We Agree with the District Court. As mentioned above, the Commission, after holding a hearing, required Brentley to sign the LCA as a condition he could have filed an appeal from the Commission's decision in Pennsylvania state court."

The Appellate Court failed to consider all other appellate issues raised, weighing its complete decision, and agreed with the District Court that Brentley could ONLY appeal to Pennsylvania State Court. **See exhibit. A**

The Mr. Brentley believes that the Civil Service Commission's website which mislead him: CSC website : https://www.pittsburghpa.gov/City-Government/Jobs/Human-Resources-and-Civil-Service/Civil-Service-Commission/CSC-Appeal-Process states:

Can the Commission's decision be appealed?

Applicants who disagree with the Commission's decisions may appeal to a body beyond the Civil Service Commission. Depending on the nature of the case, the applicant may appeal to one of the following systems: The Equal Employment Opportunity Commission, Pennsylvania Human Relations Commission, the Pittsburgh Commission on Human Relations, directly to the courts (or potentially another system).

The Plaintiff filed a case with the EEOC, as he was instructed, the EEOC holds federal jurisdiction, the Civil Service Commission Service webpage is deceptive in nature by instructing those who want to appeal the decisions.

A. The Question of Jurisdiction in Federal District Courts

An unusual pattern of judicial review emerges at the very outset when the disgruntled employee discovers, after exhausting his administrative remedies within the employing agency and the Civil Service Commission, that one of his paths of review is to the federal district court, rather than to a court of appeals. The reason is simply that there is no statute conferring jurisdiction on the courts of appeals to hear these cases directly.

The district courts, however, have concluded on several statutory bases that they have jurisdiction to review adverse action decisions of 15 U.S.C. § 45(c) (1970) (appeals of final orders of the FTC must go to a United States Court of Appeals). See note 87 and accompanying text infra.

It is a basic proposition that absent a clear mandate of Congress to the contrary, a person whose interests are directly and adversely affected by action on the part of the federal government should have the opportunity to seek judicial review once the pertinent administrative remedies have been exhausted. See Abbott Laboratories v. Gardner, 387 U.S. 136, 140 (1967); 5 U.S.C. §§ 701-02, 704 (1970) (judicial review provisions of the administrative Procedure Act); judicial control of administrative acrnon 336-53 (1965).

ARGUMENT
FACT. III

Mr. Brentley claimed that he did not receive a Loudermill hearing before he was terminate, after he had appealed to the Civil Service Commission and was reinstated, but forced to sign an LCA, he signed the agreement but stated "under duress" opposing the content of the contract because the wording removed his basic rights for due process, the Civil Service Commission he was then fired, Brentley claimed he was not afforded an hearing. Brentley claim could have been shot down by the merits of the claim however, District Court and The Appellate Court, believed he needed to file his case in the State Court, filing a due process claim, the Federal Court has jurisdiction over Loudermill case.

James Loudermill was employed by the Cleveland Board of Education in 1979 1980. He was classified as a civil servant. Under Ohio state law in effect at the time, "[s]uch employees [could] be terminated only for cause, and [could] obtain administrative review if discharged."[40]

Prior to his appointment, Loudermill claimed that he had never been convicted of a felony, despite having been convicted of grand larceny more than a decade earlier. He was removed for dishonesty regarding his criminal history without being provided. While Loudermill originated as a challenge to a state law, the U.S. Supreme Court and the Federal Circuit have clearly and unequivocally held that the decision in Loudermill applies to actions taken against Federal employees. The issue is public employment, regardless of the level of government. See, e.g.,

Lachance v. Erickson, 522 U.S. 262, 266 (1998) (explaining that while the Loudermill holding of due process, particularly the right to notice and a meaningful opportunity to respond, applies to the Federal civil service, there is no right to lie in that response); Stone v. Federal Deposit Insurance Corporation, 179 F.3d 1368, 1375 (1999) (quoting and citing Loudermill extensively to explain a Federal employee's due process right to present his or her side of the case).

See, e.g., National Collegiate Athletic Association v. Tarkanian, 488 U.S. 179, 192 (1988) (citing Loudermill and holding that when a state university acts to "impose a serious disciplinary sanction" on a tenured employee, it must comply with due process); Board of Regents of State Colleges v. Roth, 408 U.S. 564, 576-77 (1972) (describing three earlier decisions in which the Court held that due process rights applied to public employment

ARGUMENT
FACT. IV

The question presented is whether federal courts have exclusive jurisdiction over civil actions brought under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U.S.C. § 2000e et seq. (1982 ed.). Congress did not divest the state courts of their concurrent authority to adjudicate federal claims.

Brentley filed a discrimination count and wrongful termination under the 42 U.S.C. 1983, Violation of Fourteenth Amendment Right Provides that no state may deprive any person of life, liberty, or property to his complaint was in the Federal Court has complete jurisdiction over, the District dismissed the notion of discrimination and focused on whether Brentley failed to exhaust his administrative remedy, and he should have had brought forth all claims to the State Court.

The District Court rejected the jurisdictional argument, App. to Pet. for Cert. A-35 to A-39, and, after a trial on the merits, entered judgment for respondent. 682 F. Supp. 374 (ND

Ill.1988). The Court of Appeals for the Seventh Circuit affirmed. 874 F.2d 402 (CA7 1989). Because other Courts of Appeals have held that federal courts have exclusive jurisdiction over Title VII litigation, we granted certiorari, 493 U.S. 953 (1989).

The Civil Service Commission's decision to tear up the LCA agreement made between Brentley and the City of Pittsburgh remanded it back to the original reason for termination, Brentley believed that the reason for termination was discrimination and therefore, filed a complaint in the District Court for discrimination, the District Court and Appellate Court asserted Brentley need to exhaust his case with State Court. Civil Service Commission had no authority or jurisdiction to terminate city employees, the District Court should have heard the case on the basic grounds of discrimination.

The Hague formula appeared to constitute a satisfactory test for federal court jurisdiction under section 1343(3). Indeed, it has proved to be so in cases where the alleged deprivations clearly involve either personal or property rights. Federal courts, however have experienced, have experienced serious difficulty when attempting to apply the Hague formula to hybrid cases; i.e., cases where elements of personal rights and property rights are intermingled. Such hybrid cases generally involve rights which are personal in nature, but capable of pecuniary valuation as well. such rights are licenses and public employment. When there has been a denial or revocation of a license or a discharge from public employment without due process, there is a deprivation of both personal rights and property rights.

Laufer, Hague v. C.I.O.: Mr. Justice Stone's Test of Federal Jurisdiction- A Reappraisal,19 BUFF. L. REV. 547 (1970) ; Comment, supra note 6; Comment, The Proper Scope of the Civil Rights Acts, 66 HARV. L. REv. 1285

(1953) ; Comment, The "Property Rights" Exception To Civil Rights Jurisdiction- Confusion Compounded, 43 N.Y.U.L. REv. 1208 (1968).

On one hand, the Hague formulation has been recently affirmed and followed in several circuits: Weddle v. Director, 436 F.2d 343 (4th Cir. 1970) ; National Land & Inv. Co. v. Specter, 428 F.2d 91 (3d Cir. 1970) ; Eisen v. Eastman, 421 F.2d 560 (2d Cir. 1969), cert. denied, 400 U.S. 841 (1970) ; Howard v. Higgins, 379 F.2d 227 (10th Cir. 1967); Gray v. Morgan, 371 F.2d 172 (7th Cir. 1966), cert. denied, 386 U.S. 1033 (1967); Ream v. Handley, 359 F.2d 728 (7th Cir. 1966); Fuller v. Volk, 351 F.2d 323 (3d Cir. 1965).

Fourth Circuits. Weddle v. Director, 436 F.2d 342, 343 (4th Cir. 1970); National Land & Inv. Co. v. Specter, 428 F.2d 91, 99 (3d Cir. 1970).

Mr. Justice Stone's formula was initially accepted and applied by the federal courts. These courts, when faced with a lack of the appropriate amount in controversy, found jurisdiction in deprivations which were exclusively of personal rights, and denied jurisdiction in deprivations which were exclusively of property rights. The Supreme Court has upheld jurisdiction under the Civil Rights Act in two early cases involving personal rights, but did not engage in any discussion of section 1343(3) or Hague. Additionally, the Court has found no problem in sustaining jurisdiction under section 1343(3) insofar as any subsequent cases have dealt with personal rights.

Conclusions

Wherefore, this hybrid case should been considered under the Hague formula and the District Court should have had jurisdiction over such complaints made by Brentley.

Respectfully Submitted

Mark Brentley Sr.