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EMPLOYMENT - ILLINOIS

Cromwell v. City of Momence

United States Court of Appeals, Seventh Circuit - April 12, 2013 - F.3d - 2013 WL 1490099

U.S. Court of Appeals holds that police department employee handbook did not give terminated officer a constitutionally protected property interest in continued public employment.

Former city police officer brought action against city alleging that his termination was procedurally inadequate under the Due Process Clause because the police department rules and regulations, adopted by city ordinance, gave him a constitutionally protected property interest in continued public employment.

Because employment relationships in Illinois are presumed to be at will, establishing an expectation of continued employment requires a clear statement made in some substantive state-law predicate.

In this case the officer argued that the presence in the city police department's rules and regulations of a few explicit grounds for disciplining nonprobationary employees created a clear promise of continued employment for nonprobationary employees in the absence of cause for termination, sufficient to give rise to a protected property interest under the Due Process Clause. In contrast, the rules and regulations provided that probationary employees could be fired at any time for any reason.

The court began its analysis by noting that the listed grounds for disciplining nonprobationary employees were extremely broad, and, more importantly, did not purport to list all permissible grounds for termination.

Under Illinois law, promises made in an employee handbook can in certain circumstances give rise to a legitimate claim of entitlement to continued employment sufficient to be protected as a property interest by due process. An employee handbook will create an enforceable due process right to a protected property interest in continued employment only if the traditional requirements for contract formation are present, the first of which is that the promise must be clear enough that an employee would reasonably believe that an offer has been made. The promise cannot be a mere procedural guarantee, but rather, substantive criteria limiting the state's discretion is required in order for a property interest to be created.

The court of appeals held that no such contract had been formed here, and thus the officer did not have a protectable property interest in continued employment.