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Strickland v. South Panola School Dist.

Court of Appeals of Mississippi - December 3, 2013 - So.3d - 2013 WL 6233912

Strickland, a teacher employed with the school district, was arrested for enticing a child pursuant to Mississippi Code Annotated section 97-5-33(7) (Supp.2013). On October 26, 2012, while Strickland was in jail, the superintendent of the school district, hand-delivered a letter to Strickland which informed him that the board had decided to terminate his employment as a result of his arrest. The letter further stated that Strickland had five days from the date of the delivery of the letter to request a hearing. Strickland did not request a hearing until November 4, 2012. Shaffer notified Strickland's attorney on November 5, 2012, that the board would not grant Strickland's request for a hearing because the request was not made within five days of Strickland receiving notice.

Strickland argued that he was "practically unable" to request a hearing within five days because he was incarcerated. He insists that as soon as he was able to meet with his attorney, he had a written request for a hearing delivered to the board. "It is clear here that Strickland failed to comply with section 37-9-59, as he requested a hearing outside of the five-day period mandated by the statute. Therefore, he waived his right to request a hearing, and his termination became effective on November 1, 2012."

Despite his failure to comply with section 37-9-59, Strickland argued that the doctrine of equitable tolling applied, suspending the five days mandated by section 37-9-59. He contends that extraordinary circumstances forced him to make his request outside of the time period. The court concluded that the doctrine of equitable tolling does not apply here because the five-day requirement in section 37-9-59 has never been interpreted as a statute of limitations, and because Strickland was requesting a hearing with the school district, not filing a complaint in court. Additionally, Strickland cited no specific, extraordinary circumstances that kept him from contacting his attorney or the board while incarcerated and cites no authority to support his argument that the timeline set forth in section 37-9-59 may be extended pursuant to the doctrine of equitable tolling.