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PENSIONS - ALABAMA

City of Gadsden v. Harbin

Supreme Court of Alabama - December 13, 2013 - So.3d - 2013 WL 6516387

Harbin started working as a police officer for the City in 1972. It is undisputed that he did not have a written employment contract with the City. In 1972, Harbin also started mandatory participation in the Policemen's and Firemen's Retirement Fund of the City of Gadsden ("PFRF"). At that time, the PFRF provided, in part, that, after 20 or more years of service, a participant would receive "[a] retirement benefit equal to 50 percentum of the current salary being paid to persons holding the same rank as such retirement member held at the time of his retirement."

In 1975, the PFRF was modified and the above-quoted "sliding scale provision" was eliminated. The PFRF was again modified in 1980. Finally, in 2002, all the funds in the PFRF were transferred to the Employees Retirement System of Alabama ("ERS"), which then administered the retirement program for the City's police officers. Harbin retired in 2012 and currently receives pension payments under the ERS.

On January 11, 2007, Harbin sued the City, alleging breach of contract and seeking equitable relief.

The Supreme Court of Alabama held that:

- Where officer had not retired and was not eligible to retire before effective date of amendment to PFRF, his rights under the PFRF had not vested and were subject to modification, and
- Officer failed to establish claim, absent a showing that a contract actually existed between him and city.