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POLITICAL SUBDIVISIONS - KENTUCKY

Northern Kentucky Area Development District v. Wilson

Supreme Court of Kentucky - December 17, 2020 - S.W.3d - 2020 WL 7396295 - 2020 IER Cases 496,244

Employee brought action against her former employer, the Northern Kentucky Area Development District (NKADD), under the Kentucky Whistleblower Act (KWA), alleging that it retaliated against her by forcing her resignation for having reported a co-worker's fraudulent billing practice.

The Circuit Court granted former employer's motion for summary judgment, and employee appealed. The Court of Appeals reversed, and discretionary review was granted.

The Supreme Court held that as a matter of first impression, as to those claims filed before January 1, 2018, including employee's, NKADD was not one of the Commonwealth's "political subdivisions" subject to the KWA.

Northern Kentucky Area Development District (NKADD) was not then a Commonwealth "political subdivision" and so was not potentially liable on Kentucky Whistleblower Act (KWA) claim filed before January 1, 2018, by former employee for NKADD's alleged retaliation in purportedly forcing her to resign for having reported a co-worker's fraudulent billing practice; although statutorily NKADD was a "public agency" for purposes of the Interlocal Cooperation Act, that did not turn it into a political subdivision for KWA purposes, and, under the Comair analysis, 295 S.W.3d 91, while NKADD was created by statute by the General Assembly, an immune "parent," it did not serve an integral state function, as when its multitude of elder care, economic development, transportation planning, and other services was examined holistically, its operation concerned more regional than statewide needs, it carried out proprietary, non-governmental functions, and it was not necessary to government services.