

Bond Case Briefs

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EMPLOYMENT - MARYLAND

Brown v. Washington Suburban Sanitary Commission

Court of Special Appeals of Maryland - May 3, 2021 - A.3d - 2021 WL 1731690

Employee, whose termination from Washington Suburban Sanitary Commission was upheld by the Office of Administrative Hearings (OAH), filed petition for judicial review.

The Circuit Court dismissed petition and denied employee's motions to alter or amend and to revise the court's judgment, and employee appealed.

The Court of Special Appeals held that:

- Sanitary Commission was the agency that mattered, and not OAH, for purposes of rule providing that agency shall transmit to clerk of the circuit court the original or a certified copy of record of its proceedings within 60 days after agency receives petition for judicial review, and
- Employee's petition for judicial review should not have been dismissed for employee's failure to transmit the record to circuit court.

Washington Suburban Sanitary Commission was the agency that mattered, and not Office of Administrative Hearings (OAH), for purposes of rule providing that agency shall transmit to the clerk of the circuit court the original or a certified copy of the record of its proceedings within 60 days after agency receives petition for judicial review; Commission employed employee, paid her checks, suspended her, and made the decision to terminate her, and although that decision was upheld on appeal after a hearing conducted by OAH, the agency action that employee petitioned the circuit court to review was Commission's decision.

Employee's petition for judicial review of decision of the Office of Administrative Hearings (OAH) upholding Washington Suburban Sanitary Commission's termination of employee should not have been dismissed for employee's failure to transmit the record to circuit court; Commission could have required employee to order and pay for the transcript, but the record did not reveal how or where or any other basis on which to shift Commission's responsibility to employee to transmit the record to the circuit court.