
PUBLIC UTILITIES - MISSISSIPPI

City of Canton v. Slaughter

Supreme Court of Mississippi. - March 16, 2023 - So.3d - 2023 WL 2533264

Two municipal utilities commissioners sought judicial review of decision by city board of aldermen to remove them from their appointed positions. The Circuit Court reversed the board's decision. Board appealed.

The Supreme Court held that:

- Commissioners' notice of appeal naming board rather than city complied with statutory requirements;
- Commissioners' notice of appeal satisfied requirement that such notices contain a description or designation of the record;
- Commissioners' notice of appeal was timely filed;
- Commissioners were "public officers" entitled to notice and opportunity to be heard; and
- Commissioners were improperly removed from their positions because board failed to override mayor's veto of their resolution to issue notice and opportunity to be heard.

Municipal utilities commissioners fell within definition of "public officer," and thus, decision by city board of aldermen to remove them from their appointed positions for without providing them notice and opportunity to be heard prior to removal violated commissioners' procedural due process rights, notwithstanding statute providing for removal of commissioners for inefficiency or incompetency or any other cause, since commissioners were appointed to discharge a designated duty concerning the public.

City board of aldermen's four-to-one vote to override mayor's veto of their resolution to issue notice and opportunity to be heard to two municipal utilities commissioners failed to pass since it lacked the requisite two-thirds majority of board members, thus resulting in improper removal of the commissioners from their appointed positions, where vote cast by alderman acting his capacity as mayor pro tempore did not count because he was serving in place of the mayor and by statute could only vote as the mayor would, that is, in case of a tie.

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