IN THE SUPREME COURT OF THE STATE OF RIDGEWAY

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RIDGEWAY PARKS SERVICE, ET AL., :

Appellants, :

v. : No. 22-02

STEKING2008, :

Appellee. :

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PALMER, R.W.

Thursday, May 12, 2022

The above-entitled matter came on for oral argument before the Supreme Court of the State of Ridgeway at 8:18 p.m.

APPEARANCES:

CIFFORD2, ESQ.; Attorney General, Department of Justice, Palmer, R.W.; on behalf of Appellants.

HOLYROMANRYAN, ESQ.; Palmer, R.W.; on behalf of Appellee.

P R O C E E D I N G S

(08:18 p.m.)

CHIEF JUSTICE BURGER: We will now hear argument in case 22-02, Ridgeway Parks Service, et al. v. SteKing2008.

I invite General CIfford2 for the appellants to present his argument.

ORAL ARGUMENT OF CIFFORD2

ON BEHALF OF APPELLANTS

MR. CIFFORD2: Thank you Mr. Chief Justice, and may it please the Court:

Law Enforcement Training Center retains broad statutory authority to administer certifications, enroll quality applicants, and punish wrongdoers. They were acting squarely within this statutory authority when they implemented the blacklist below. No statute forecloses their ability to do just that. LETC's actions were lawful, both under the words of the law, and against the backdrop of the legislative intent that supports them.

First, the plain meaning of the law does not prohibit LETC from implementing a blacklist from obtaining certifications. The statute at issue here, Section 332, prohibits blacklists from employment, but of course, a certification is not employment. They are distinct. And the Law Enforcement Training Center has a

great interest in maintaining legitimacy of their certification. That's precisely what they did here. The lower court panel, in their findings of fact, even noted that this was a blacklist on certification. This is a fact that goes completely unmentioned in the appellee's reply brief. It is cleanly conceded throughout this entire case. But, appellee does lodge two central defenses to this claim. First, they say that certification is employment. But this is wrong. Those who are certified to become a law enforcement officer are not employed – they just have a certificate. Next, they adopt the rationale of the lower court to some extent that --

JUSTICE POWELL: Counselor --

MR. CIFFORD2: I'm sorry –

JUSTICE POWELL: I'm sorry, General -- don't you need a LETC certification to be employed as a law enforcement officer?

MR. CIFFORD2: It is certainly true, Justice Powell, that a prerequisite for employment in a law enforcement agency is a certification, but as we note in our merits brief, the adjacent effects of a blacklist against certification is not its sole defining factor. The lower court's analysis in regards to your question essentially said that because the certification is a prerequisite, and because it ultimately has the effect of prohibiting that employment, that the blacklist is a blacklist

on employment. But this is wrong because it completely disregards the intent of the blacklist implemented below, the parameters that were used to enforce that blacklist, and of course, the sole effect of the blacklist. We concede that the blacklist does has the effect of prohibiting employment. But because a blacklist cannot be defined by its sole trait, this is not a blacklist from employment for the purposes of Section 332. As I was saying, blacklists must be defined by their intended effects in addition to their actual implications. LETC can't be responsible for something that is something out of their hands, and this goes to your question, Justice Powell, an employment blacklist would only be an employment blacklist if it had the intent to blacklist someone from employment, the enforcement mechanisms in place to actually do it, and the actual effect of implementing that blacklist. Defining a blacklist by a singular adjacent effect, as the lower court does, is illogical and contrary to the word of the law. This was a blacklist from obtaining a certification, not a blacklist from employment. On that face alone, the judgment should be vacated.

But second, the legislative intent points clearly to a conclusion that LETC retains the authority to implement certification blacklists. Most notably, 8 R. Stat. § 104 explicitly says that no certification may be issued without

consent of the director of the Law Enforcement Training Center. This is significant. And then, in the following section, the legislature places a series of conditions upon this broad statutory authority, and prohibits certain actions from LETC. None of these conditions include a blacklist. And the inclusion canon of statutory interpretation, as we mention in our merits brief, is that where this type of structure exists, the Senate has clearly spoken about what it wants. If the Senate didn't want LETC to have this authority, they would have said that all blacklists are prohibited, or made careful note that the list in Subsection 2(e) of the Public Safety Act was not exhaustive. And the evidence that they knew this type of structure existed is abounding. The Judiciary Act in Section 4.2(c) has the words "including but not limited to." The Military Act in Section 1(j) has the words "including, but not limited to," followed by a list. The Public Safety Act, in Section 3(d), has the words "including, but not limited to," followed by a list. They use this language in the same act, as the same statute and provisions that give broad statutory discretion to the LETC.

But the Senate didn't do this. They spoke frankly about what they wanted the law to be. And this court is bound to heed to it.

The Law Enforcement Training Center has been able to freely

administer certifications since its inception. When the State laws were created, the Senate was cognizant of the use of blacklists by the institution as well as state agencies, and they spoke clearly to exclusively foreclose blacklists from employment, and nothing else. Appellees and the lower court create a legislative intent out of thin air, one that is wholly inconsistent and plainly disregards every textual clue throughout the inaugural laws, logic that is so poorly reasoned, and so loosely established in the words of the law cannot be the logic that governs the Law Enforcement Training Center. It cannot be the logic that governs the legitimacy of law enforcement at large.

Appellee suggests a different approach. In their reply brief, they bring in a whole new argument and invoke the interpretative canon that words are defined by the company they keep. And they use this canon to posit to this court that when the Senate said blacklists from employment are prohibited, they didn't really mean that. What they actually meant was to foreclose blacklists around employment. But the language gives evidence to the contrary. And the statutory scheme advanced contravenes this logic as well.

They also make one major concession here. If blacklists AROUND employment are prohibited, they concede that this is not

a blacklist ON employment, and instead suggests that it is one AROUND employment. This explicitly departs from the lower court's rationale and completely contradicts every argument they make that the blacklist here was a blacklist on employment. That's really significant because it illustrates that the original arguments were so weak, that instead of defending them in the reply brief, the appellee had to create a whole new argument—one that wholly contradicts the previous.

There's no question that the legislature intended to give LETC this broad authority, and in no way intended for § 332 to prohibit blacklists from certification. The only legislative intent that the appellee and the lower court can give you is that intent that they manufacture out of thin air: reasoning that because the legislature banned one particular blacklist, it was inherently a ban on all blacklists. They continuously switch up their rationale for why this is true, and each time, it goes undefended and abandoned.

And for that reason, this court should vacate the judgment of the lower court. I'd invite the court's questions.

[QUESTIONS OMITTED DUE TO ERROR IN RECORDING]

CHIEF JUSTICE BURGER: The Court will now be going into a recess until the appellee presents their argument. Thank you very much, General.

(Whereupon, at 8:46 p.m., the Court entered a recess until May 13, 2022, at 7:39 p.m.)

JUSTICE POWELL: We'll be resuming argument in case number 22-02, Ridgeway Parks Service, et al. v. SteKing2008.

Counsel, you may proceed when you are ready.

ORAL ARGUMENT OF HOLYROMANRYAN

ON BEHALF OF APPELLEE

MR. HOLYROMANRYAN: Mr. Justice Powell and may it please the court,

When the lower court held that the Law Enforcement Training Center acted unlawfully under the Administrative Procedure Act, it based its decision on the fact that a LETC Blacklist is a de facto employment blacklist, and therefore unlawful under 2 R. Stat. § 332.

This decision is not only grounded in the plain meaning of the statute but also conferred in the legislative intent.

Firstly, when analyzing this statute, we need to look at the words the legislature provided. The language of § 332 is largely conclusive. However, the central contention comes over the phrase from employment. Connecticut National Bank versus Germain teaches – absent other indicators – we much presume the legislature meant exactly what they put. However, the language of § 332 is ambiguous in the way that "from employment" can mean

100 different things to 100 different people. Because of this, proper interpretation continues with the usage of an interpretive canon.

The petitioner relies heavily on the doctrine of expressio unius est exlcusio alterius. This doctrine teaches that by the inclusion of one thing, the legislature intended to exclude another. An expression-exclusion rule.

Chevron USA, Inc. versus Echazabal provides that for the expression-exclusion rule to work, two things must be present. A cognizable list and reasonable inference of relation. The Public Safety Act is where the LETC derives its power to regulate its inductees. The PSA provides that the LETC can revoke, suspend, and issue strikes against their inductee's certification for a violation of their policies.

This is the list. A list of powers that the LETC can do.

JUSTICE POWELL: But didn't the Senate indicate that these restrictions were considered more as limits against the LETC's powers than trying to limit the usage of blacklists?

MR. HOLYROMANRYAN: Well, it is a list of what LETC can do. The Public Safety Act doesn't act as a direct check on LETC's power by saying it can't do something. Instead, it acts as an indirect check by saying this is all they can do, blacklists not included.

Regardless of this, the expression-exclusion rule is the incorrect one to apply.

JUSTICE POWELL: But didn't you just argue that under this interpretative canon, the LETC is limited to the powers in that section?

Also, what would indicate that 2 R. Stat. § 332 is indeed ambiguous?

MR. HOLYROMANRYAN: Well no. I argued that the State relies on that doctrine to state that the LETC is granted the power to blacklist individuals, even when they aren't.

JUSTICE POWELL: What would be the way to determine whether a statute is indeed ambiguous in its mandate?

MR. HOLYROMANRYAN: Yes it is. This is why it is important to use a different interpretive canon: noscitur a sociis. I believe that it would be anything that can be interpreted multiple ways, regardless of what the legislature intended it to.

JUSTICE POWELL: I don't think you understood my question, counsel.

MR. HOLYROMANRYAN: I did misread. Please excuse that error. Wording that would cause multiple interpretations regardless of the proper interpretation the legislature intended, such as "from employment," would be ambiguous.

This is why the court developed the doctrine of noscitur a sociis, or a word known by the company it keeps.

JUSTICE POWELL: Well, what other interpretations can be offered for the phrase "from employment"?

Because from first blush, it doesn't seem like the phrase "from employment" could result in multiple meanings.

MR. HOLYROMANRYAN: Well, it would depend on how broadly you needed to define employment. In this case, employment should be interpreted as relating to any employment, not just direct employment blacklists from departments.

Under the Adminstrative Procedure Act I believe it would be reasonable to even conclude division blacklists are employment.

The doctrine of nosictur a sociis solves this. The rule is an attempt to curb ambiguity and to properly secure the true definition of the word by looking at what else was included in the statutes, legislative intent, and the wording of its own statute.

JUSTICE POWELL: So you're saying that if I were to be employed at, say, Faris's Fresh Fades, and I commit some sort of misconduct while I'm on my shift, Faris's Fresh Fades cannot blacklist me as a result?

Because, counsel, saying that the term "employment" relates to "any employment" is a fairly broad contention.

MR. HOLYROMANRYAN: Yes. Such a broad interpretation is supported by multiple reasons.

JUSTICE POWELL: You're saying the Administrative Procedures Act applies to private employment as well?

MR. HOLYROMANRYAN: In practice no, but for the sake of the example, it would be fair to say that it did.

I think a fairer example would be that of P. P is employed within the RCSO as a Sheriff's Deputy. He aspires to join the Air Unit. Before applying to the Air Unit, you need to be at least a Deputy First Class; P is prohibited from obtaining this rank and is, therefore, under a de facto blacklist from employment within the Air Unit.

Even though it's not a "direct" blacklist to employment, it is, for the purposes of the APA, a blacklist.

When discerning the meaning of employment with regard to its broadness, we need to turn to the legislative intent. The legislature intended to regulate actions pertaining to employment. Pertaining has the same effect as "around" or "near," in the context of relations. This signifies intent of not regulating just direct employment, but all employment. Thus, the language of § 332 must be interpreted with a more liberal view, instead of strict meaning.

I think it depends on how broadly you needed to define

employment.

But noscitur a sociis is not the end; instead, it is a beginning. Using the required, liberal view that we must take on § 332 it is clear that the lower court drew the correct conclusion when determining that a de facto blacklist--as the LETC imposes--is indeed one from employment.

The broad intent of the legislature also requires broad interpretation. In Maracich versus Spears, the Supreme Court noted that broad intent must also be coupled with broad interpretation. Instead of using tailored language to limit the scope of § 332, the legislature opts for no modifier that restricts the scope of employment.

JUSTICE POWELL: You're saying that we should base our determination of whether a blacklist from employment occurred in this case on the consequences of the action?

MR. HOLYROMANRYAN: Given the context of the situation yes.

JUSTICE POWELL: But wouldn't this interpretation create its own ambiguity as to the scope of employment?

I don't think our task is to create independent ambiguities that the legislature did not intend for us to create, counsel.

MR. HOLYROMANRYAN: Well, Maracich and Telegraphers versus Chicago N.W. R. Co. both affirm that this court should indeed respect the legislature's broad language and intention.

The court would not be creating ambiguities that the legislature did not, it would be solving whether the legislature wanted the statute to be interpreted broadly.

JUSTICE POWELL: But did the legislature really intend to make the term "employment" broad?

Our paramount task is to, of course, interpret the law by its plain meaning.

MR. HOLYROMANRYAN: Yes, it is. But when that plain meaning is blurred by ambiguity we need to turn to intent.

The intent is clear. Employment can mean many different things to many different people. It is our firm belief they wanted to make it broad. It is important when determining ambiguity to turn to intent. At the start of the APA the legislature stated its intent as “An Act to provide procedural rules around employment and actions pertaining to employees.” The key words here are “around” and “pertaining.” But this should be read in line with the words grouped with it. “Rules around employment” conduces the legislature’s intent of creating rules surrounding the topic of employment. The next phrase “actions pertaining to employees.” This word choice was specific and again conduces the intent of the legislature. “[Whe]n arriving at the intended construction of this language, we must therefore inevitably turn to the purpose of Congress in enacting

this legislation.” Foti versus Immigration and Naturalization Service. The purpose of this act is clear, to not directly regulate administrative action, but to also regulate all actions related.

A five-year-old kid would say that running a lemonade stand would be employment, while a forty-year-old would not.

JUSTICE POWELL: Why wouldn't the forty-year-old state that running a lemonade stand is employment?

Theoretically, he's given work, he's given pay (so long as there are customers to his stand), that would count as "employment" according to its plain meaning, wouldn't it?

MR. HOLYROMANRYAN: Well, they aren't working a "formal job.” Employment, legally, refers to work done under contract where the supervisor can regulate the work. Even a self-run business would meet the legal definition of employment.

JUSTICE POWELL: So the forty-year-old, running the lemonade stand, would be employed by your definition.

MR. HOLYROMANRYAN: The forty-year-old wouldn't be running a lemonade stand, but yes, by our legal and societal standards.

Employment can mean a lot of different things, and this is how it is ambiguous. It can be very tailored or not tailored at all--as the legislature intends. In this case, the legislative intent was to retain a broad definition of employment. The self-

proclaimed intention of the legislature and the construction of § 332 supports this. Telegraphers is explicit in its holding. It teaches us that Congress made the statute broad, because it wanted it to be broad. Broad interpretation is what the lower Court undertook. This interpretation largely supports the conclusion that the LETC cannot blacklist an individual from enrolling to gain a certification as to gain employment--in some agencies--a person must have a LETC Certification. Therefore, we strongly urge this court to affirm the lower court's holding.

If any Justices have other questions, please just tag me.

JUDGE ZAC2524: Would you say that a person with a blacklisted LETC certification may theoretically still be employed in a law enforcement agency, such as in the capacity of a Correctional Officer?

MR. HOLYROMANRYAN: Hypothetically yes. Anything would be possible. However, the State pointed out in their merit brief and jurisdictional statement that a LETC Certification plays a big part in how departments view a person. It would be a stretch to say that someone with a LETC blacklist would be able to obtain employment as a corrections officer, but it would be highly unlikely.

I think it would be more important, when analyzing § 332 to look at the effects of the blacklist. "From employment" is

conducive to relating to any employment, not just in a department as a whole.

JUDGE ZAC2524: What about employment in an agency such as the Transit Authority?

MR. HOLYROMANRYAN: Well, yes, hypothetically. Again, it is possible, but I do believe it would be relatively unlikely. Even if one were to be able to retain some employment after a LETC blacklist, it doesn't change the fact that a LETC blacklist bars some employment and is therefore Unlawful under § 332.

JUDGE ZAC2524: You said "In this case, employment should be interpreted as relating to any employment."

Are you now clarifying that an individual, even if at the very least still likely, may still gain employment in a department even with a LETC blacklist?

MR. HOLYROMANRYAN: Some forms of employment, yes. When I said that I was referring to what the author of § 332 intended. Any blacklist that levies inability to get any job--regardless of how small, would be in violation of § 332.

Even if it is a unit within a department, or a specific position, it would still be "employment" as the legislature intended it to be.

JUSTICE POWELL: With no further questions and the 24 hour period expiring, this case is submitted. Thank you, counsel.

(Whereupon, at 7:40 p.m., the case was submitted.)