

RENDERED: DECEMBER 30, 2004; 2:00 p.m.
NOT TO BE PUBLISHED

MODIFIED: FEBRUARY 25, 2005; 2:00 p.m.

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-000896-MR

CHARLES COURTNEY; DAVID
GOODRIDGE; CHARLES HOBBS;
RICHARD RABE; RONALD ROSE;
RICHARD SULLIVAN; SID WALTERS;
AND MACK BOWLING

APPELLANTS

v. APPEAL FROM BOONE CIRCUIT COURT
HONORABLE JOSEPH F. BAMBERGER, JUDGE
ACTION NO. 00-CI-00237

BOARD OF EDUCATION OF BOONE COUNTY,
KENTUCKY; AND BRYAN BLAVATT,
IN HIS OFFICIAL CAPACITY AS
SUPERINTENDENT OF THE BOONE
COUNTY SCHOOLS

APPELLEES

OPINION

REVERSING AND REMANDING

** ** * * * * *

BEFORE: BUCKINGHAM, DYCHE, AND SCHRODER, JUDGES.

DYCHE, JUDGE: Appellants initiated this action claiming that the appellees had paid them in an inequitable manner by failing to give them experience credit in determining their pay as

classified employees for years of employment as certified employees. They claimed that other employees had been granted such experience credit, and that appellees therefore were in violation of KRS 64.590 and 161.011 (relating to the fixing of compensation of classified school employees), and section 2 of the Constitution of Kentucky (forbidding arbitrary action).

During discovery in the case, appellee Blavatt admitted that the Board of Education had, in fact, credited some employees with certified service in determining their classified pay. A memorandum filed on appellees' behalf in this litigation furnished names of some persons who had received such credit. The trial court nevertheless found, in granting a judgment "on the record," that appellants had failed to name any person who had been credited in that manner, and their cause of action must therefore fail. We disagree, reverse the trial court's judgment, and remand for a calculation of appellants' damages.

The trial court apparently accepted the argument put forth by appellees that appellants had to produce evidence that they had been treated differently than other **bus drivers** who had received the credit, rather than differently than other classified employees. This is not necessary. The record shows, by appellees' admission, that other classified employees had received the credit when appellants had not. That establishes appellants' cause of action that their salaries were set in an

inequitable, discriminatory, and arbitrary manner. No further proof is necessary. All that is left to do is to determine the appropriate relief due appellants because of the illegal action.

We therefore reverse the judgment of the Boone Circuit Court, and remand this action for a determination of the appropriate relief.

ALL CONCUR.

BRIEF FOR APPELLANTS:

Mary Wheeler Ruble
Brooks, McCombs, Fields &
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Lexington, Kentucky

BRIEF FOR APPELLEES:

Donald J. Ruberg
O'Hara, Ruberg, Taylor,
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