

2015 IL App (2d) 140731-U
No. 2-14-0731
Order filed March 13, 2015

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

SUE HOLMES, CHERYL DRESKA, LEANN)	Appeal from the Circuit Court
DUNLAP, MELISSA GALAN, MICHELLE)	of Boone County.
MACHT, STEVE SIMARD, and SCOTT)	
ZIMMERLEE,)	
Plaintiffs-Appellants,)	
v.)	No. 13-CH-225
BOARD OF EDUCATION OF BELVIDERE)	
COMMUNITY SCHOOL DISTRICT 100,)	Honorable
Defendant-Appellee.)	Brendan A. Maher
	Judge, Presiding.

PRESIDING JUSTICE SCHOSTOK delivered the judgment of the court.
Justice Zenoff and Justice Burke concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in dismissing the plaintiffs' complaint because the plaintiffs received complete evaluations before being dismissed from their employment as school teachers.

¶ 2 The defendant, the Board of Education of Belvidere Community School District 100 (the Board), dismissed the plaintiffs, Sue Holmes, Cheryl Dreska, Leann Dunlap, Melissa Galan, Michelle Macht, Steve Simard, and Scott Zimmerlee, from their employment as schoolteachers. The plaintiffs filed a complaint in the circuit court of Boone County seeking reinstatement. The

trial court dismissed the plaintiffs' complaint pursuant to section 2-615 of the Illinois Code of Civil Procedure (735 ILCS 5/2-615 (West 2012)). The plaintiffs appeal from that order. We affirm.

¶ 3

BACKGROUND

¶ 4 In order to determine which teachers would lose their jobs in the event job layoffs were necessary, the Board developed a teacher evaluation plan pursuant to section 24A-4 of the Illinois School Code (105 ILCS 5/24A-4 (West 2012)). The evaluation plan consisted of two components: a performance review section and a professional growth goal section. The performance review was based on an evaluator's observations of a teacher in the classroom, conferences between the evaluator and the teacher, and written feedback on the teacher's performance. The growth goal involved the teacher completing a "professional growth goal setting action plan," a "mid-goal review" form (which could be completed jointly with an evaluator) and a "professional growth goal reflection" form.

¶ 5 Under the evaluation plan, the final summative rating for each evaluation was to be derived from the two components of the evaluation. However, if a teacher received a "needs improvement rating" (the second-lowest of four possible ratings) or an "unsatisfactory rating" (the lowest of four possible ratings) in the performance review section, receiving a higher sub-rating in the growth goal section would not raise the teacher's overall summative rating. The significance of a teacher's evaluation is demonstrated in the chart below:

Performance Review Rating	Growth Goal Rating	Summative Rating
Excellent	Proficient or higher	Excellent
Excellent	Needs improvement or lower	Proficient
Proficient	Needs improvement or higher	Proficient

Proficient	Unsatisfactory	Needs Improvement
Needs Improvement	Excellent or lower	Needs Improvement
Unsatisfactory	Excellent or lower	Unsatisfactory

¶ 6 In 2012-13, the plaintiffs were all given summative ratings of either “needs improvement” or “unsatisfactory.” This was a result of receiving “needs improvement” or “unsatisfactory” ratings in the performance review section. The plaintiffs did not receive a rating in the growth goal section.

¶ 7 On March 18, 2013, the Board implemented a reduction in force. Based on the low summative ratings that the seven plaintiffs had received, they were all dismissed.

¶ 8 On February 7, 2014, the plaintiffs filed a complaint challenging their dismissals. The plaintiffs argued that the evaluations the Board relied on were not complete because they did not include a rating in the growth goal section. Because those evaluations were not completed, the plaintiffs argued the Board should have instead relied on the most recent evaluations that had been completed. In those evaluations, the plaintiffs all received positive reviews (excellent or proficient). Based on those evaluations, the plaintiffs argued that they should have not been dismissed from their employment.

¶ 9 In response, on March 10, 2014, the Board filed a motion to dismiss the plaintiffs’ complaint. On July 11, 2014, the trial court granted the Board’s motion and dismissed the plaintiffs’ complaint. The plaintiffs filed a timely notice of appeal from that order.

¶ 10 ANALYSIS

¶ 11 The plaintiffs argue that they stated a valid cause of action for improper dismissal from their jobs. The plaintiffs insist that, before the Board could terminate their positions, the Board was required to comply with an evaluation plan initiated pursuant to section 24A-4(a) of the

School Code (105 ILCS 5/24A-4 (West 2012)). Because the Board's evaluations of the plaintiffs were not complete, the Board could not rely on those evaluations to dismiss the plaintiffs from their jobs.

¶ 12 A motion to dismiss brought under section 2-615 tests the legal sufficiency of the complaint. On review, the inquiry is whether the allegations of the complaint, when construed in the light most favorable to the plaintiff, and taking all well-pleaded facts and all reasonable inferences that may be drawn from those facts as true, are sufficient to establish a cause of action upon which relief may be granted. *Napleton v. Village of Hinsdale*, 229 Ill. 2d 296, 305 (2008). Because Illinois is a fact-pleading jurisdiction, a plaintiff must allege facts, not mere conclusions, to establish his or her claim as a viable cause of action. *Vernon v. Schuster*, 179 Ill. 2d 338, 344 (1997). A claim should not be dismissed pursuant to section 2-615 unless no set of facts can be proved which would entitle the plaintiff to recover. *Iseberg v. Gross*, 227 Ill. 2d 78, 86 (2007). We review, *de novo*, the circuit court's dismissal of the plaintiff's action. *Vitro v. Mihelic*, 209 Ill. 2d 76, 81 (2004).

¶ 13 We believe that the underlying premise of the plaintiff's complaint is flawed. The plaintiffs argue that an evaluation was not completed until both (1) the performance review section and (2) the goal section were finished. This argument overlooks the fact that if a teacher received a negative review ("unsatisfactory" or "needs improvement") under the performance review section, then an additional rating under the goal section would be meaningless because it could not change the overall review. Under these circumstances, the review was indeed completed because nothing substantial remained to be done. See Black's Law Dictionary 284 (6th ed. 1990) (defining "completed" as meaning "finished; nothing substantial remaining to be done").

¶ 14 We further note that our courts have consistently refused to impose obligations upon litigants that would have been pointless. See, e.g., *In re Marriage of Lasky*, 176 Ill. 2d 75, 81 (1997) (once parties agreed that joint custody would not be feasible, it would be pointless and redundant to require the parties to prove by other clear and convincing evidence that joint custody was not feasible); *Glass v. Morgan Guarantee Trust Co.*, 238 Ill. App. 3d 355, 360 (1992) (refusing to impose duty on owners to post warning that stairs were dangerous because customer knew that stairs were potentially dangerous and therefore such warning would be pointless). As requiring the Board to ensure that the growth goal section of an evaluation was finished before making its final termination decision would have been pointless, the Board was not obligated to ensure that that section was completed. See *Lasky*, 176 Ill. 2d at 81. Accordingly, as the evaluations were complete for all practical purposes, the trial court could properly determine that the plaintiffs had not stated a valid cause of action.

¶ 15 In so ruling, we reject the plaintiff's argument that if a school board fails to comply with all statutory requirements or its own internal policies, then its actions will be voided. All of the cases that the plaintiffs cite to support this proposition involve a teacher or student who was prejudiced by the board's actions. See, e.g., *MacDonald v. State Board of Education*, 2012 IL App (4th) 110599, ¶¶ 31-33 (teacher's dismissal invalidated where board delayed implementation of remediation plan which deprived the teacher of the opportunity to use the summer break to plan and prepare for improvement); *Buchna v. Illinois State Board of Education*, 342 Ill. App. 3d 934, 938 (2003) (teacher's dismissal overturned because she was not rated on the statutorily-required system); *Camlin v. Beecher Community School District*, 339 Ill. App. 3d 1013, 1018 (2003) (board improperly expelled student for marijuana use when it did not adhere to its own policies and allow student opportunity to participate in substance abuse

program); *Koerner v. Joppa Community High School District, No. 21*, 143 Ill. App. 3d 162, 164 (1986) (teacher's dismissal overturned because he did not receive the statutorily-required 60 days' notice); *Neal v. Board of Education, School District No. 189*, 56 Ill. App. 3d 10, 14 (1977) (teacher's dismissal overturned because the school board failed to properly time its dismissal notice and the effective date of the dismissal in compliance with explicit statutory timing requirements); *Smith v. Board of Education of East St. Louis School District No. 189 of St. Clair County*, 52 Ill. App. 3d 647, 651 (1977) (teacher's dismissal overturned because statutorily required hearing was not conducted). Here, as the plaintiffs were not prejudiced by the Board's actions, the plaintiffs are not entitled to any relief. See *Glover v. Board of Education of Macon Community Unit School District No. 5*, 62 Ill. 2d 122, 126 (1975) (teacher not prejudiced or entitled to any relief when board sent him notice of dismissal by regular mail instead of registered mail because he still received notice).

¶ 16 The plaintiffs insist that they were prejudiced because they lost their jobs due to incomplete evaluations. Once again, we reject this argument because the record reveals that the evaluations were *fait accompli* once the plaintiffs received negative performance reviews. As the evaluations were complete for all practical purposes, the Board could properly rely on them in dismissing the plaintiffs from their employment. The trial court therefore did not err in dismissing the plaintiffs' complaint.

¶ 17 CONCLUSION

¶ 18 For the foregoing reasons, we affirm the judgment of the circuit court of Boone County.

¶ 19 Affirmed.