

No. 28490 -- George Trimble v. West Virginia Board of Directors, Southern West Virginia Community and Technical College

Maynard, Justice, dissenting:

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I dissent from the majority opinion because I do not believe that the College acted arbitrarily and capriciously in terminating the appellant.

This Court, as an appellate court, has a quite limited and modest role which is simply to ensure that the law is properly interpreted and applied below. With its decision in this case, however, the majority expresses its intent to act as a kind of “super board of directors” whose role is to micro-manage higher education employment and disciplinary decisions. Worse still, the majority formalizes the role of micro-manager by fashioning from whole cloth an overly broad constitutional rule in Syllabus Point 6 which has no foundation in constitutional jurisprudence but rather stems from the majority’s own subjective notions of justice.

In addition, the majority sends an unmistakable message to State college and university administrations that even the most recalcitrant, inflexible, and uncooperative tenured teachers cannot be fired absent a protracted, and most likely futile, effort to bring them into line. The undisputed facts indicate that the appellant missed at least four instructional meetings, adamantly refused to complete a syllabus in the required format, and, when advised of the College’s intention to terminate his

employment for insubordination, declined an opportunity to meet with administrators to rebut the charges and discuss the matter. It was only *after* his termination that he filed the grievance that has ended up in this Court. Despite these facts, the majority finds that the appellant's termination was improper.

The majority opinion unreasonably burdens college administrators with the extra expense, in both time and money, of additional hearings and delays prior to the termination of ineffecti or insubordinate employees. It thus robs administrators of the ability to take quick and decisive action. One casualty of this unnecessary extra expense may be the ability to dispense a quality education at a reasonable cost.

Finally, the real outrage in this case is the sad fact that this Court has rewarded the appellant's egregious misconduct with many thousands of tax dollars in back pay and interest.

Accordingly, for the reasons stated above, I dissent.