

IN THE CIRCUIT COURT OF WAYNE COUNTY, WEST VIRGINIA

STAFFORD GLEN POFF

Plaintiff,

v.

WAYNE COUNTY COMMISSION,

Defendant.

SHERIA MAYNARD,

Plaintiff,

v.

WAYNE COUNTY COMMISSION,

Defendant.

TRAVIS WILLIAMSON, et al.,

Plaintiffs,

v.

WAYNE COUNTY COMMISSION,

Defendant.

WADE R. WELLMAN,

Plaintiff,

v.

WAYNE COUNTY COMMISSION,

Defendant.

NATHAN TRIPLETT,

Plaintiff,

v.

WAYNE COUNTY COMMISSION,

Defendant.

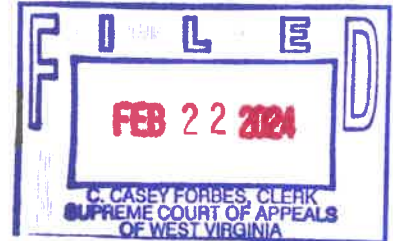
SCA EFiled: Feb 23 2024

11:07AM EST

Transaction ID 72124607

CIVIL ACTION NO. 19-C-31

Judge Gregory L. Howard, Jr.



CIVIL ACTION NO. 19-C-56

Judge Gregory L. Howard, Jr.

CIVIL ACTION NO. 19-C-57

Judge Gregory L. Howard, Jr.

CIVIL ACTION NO. 19-C-60

Judge Gregory L. Howard, Jr.

CIVIL ACTION NO. 19-C-61

Judge Gregory L. Howard, Jr.

ORDER GRANTING JOINT MOTION TO CERTIFY

On a prior day, the parties in the above-referenced civil actions, by counsel, filed their Joint Motion to Certify Questions under W. Va. Code § 58-5-2 and Rule 17 of the West Virginia Rules of Appellate Procedure. Having considered the parties' joint motion, the Court finds and concludes that certification to the Supreme Court of Appeals of West Virginia is appropriate. Accordingly, this Court presents the following questions for certification:

Certified Questions

1. **Whether Defendant's former written policy and practice of paying ninety percent (90%) of healthcare insurance premiums for deputy sheriffs who work 20-24 years and retire at the age of 50 created a vested right to retiree health insurance benefits for Plaintiffs.**

____ Yes

X No

2. **Whether Plaintiffs may proceed with claims sounding in detrimental reliance, false and misleading statements, unjust enrichment, quantum meruit and breach of contract to enforce Defendant's former written policy and practice of paying a percentage of healthcare insurance premiums for deputy sheriffs who work 20-24 years and retire at the age of 50.**

X Yes

____ No

Statement of Facts

This Court provides a brief summary of the factual and procedural background of these cases. Beginning in 2011, Defendant Wayne County Commission had a created a written policy and practice providing that Wayne County deputy sheriffs could retire at age 50 and receive health care coverage, with ninety percent (90%) of the premium cost paid by Defendant after they worked

for Defendant for 20 to 24 years. Defendant paid one hundred percent (100%) of the premium cost for deputies who retired at the age of 50 after working 25 years. These consolidated matters arose after Defendant amended that practice in April 2017. After April 2017, Defendant raised the eligible age to receive retiree healthcare benefits from 50 to 60 and reduced the premium cost to be paid by the Defendant to fifty percent (50%).

Pending before this Court are motions for summary judgment in *Poff v. Wayne County Commission*, Civil Action No. 19-C-31 and *Maynard v. Wayne County Commission*, Civil Action No. 19-C-56. Defendant argues, among other things, that health insurance benefits are not “vested benefits” because they are funded on a year-to-year basis, from a budget that is likewise funded annually to cover expenses that occur over the course of a single fiscal year. Defendant’s consultant advised as to the increasing cost of retiree health insurance in the future, and Defendant realized that it was no longer able to afford to pay for this benefit. Defendant further asserts that retiree health insurance benefits cannot “vest” for Plaintiffs because they have not contributed anything into a plan funding such benefits.

Contrarily, the Plaintiffs assert that they worked for several years and they detrimentally relied on the Defendant's written policy and forewent higher paying job opportunities and pay raises so that they could retire at age 50 after twenty (20) years of service and receive ninety percent (90%) of their healthcare insurance premiums paid by the Defendant. For instance, Plaintiff Sheria Maynard retired in August 2021 at age 55 with 19 years of service.

Plaintiffs in *Williamson, et al. v. Wayne County Commission*, Civil Action No. 19-C-57, intervened in *Maynard* at the summary judgment stage and filed response and surreply memoranda. The *Poff*, *Maynard*, *Williamson*, *Wellman*, and *Triplett* Plaintiffs claim that the 2011 written policy and practice gave them a vested right to unchanged retiree health insurance benefits

and that they are entitled to retire at age 50 and receive Defendant-paid retiree healthcare insurance premiums for their lifetimes if they work for Defendant for at least 20 years. Plaintiffs further argue that they detrimentally relied on the Defendant's written policy.

Plaintiffs assert that they have a vested right to these benefits because they accepted "an artificially low wage" and forewent pay raises and other deputy job opportunities in other jurisdictions that paid more "due to the benefit of health care benefits starting at the retirement age of fifty years old."

After considering the written pleadings and oral arguments, the Court finds that these issues present a matter of first impression in West Virginia and that there is no clear controlling West Virginia precedent to guide its decision. Accordingly, the Court is certifying these questions of law to the Supreme Court of Appeals of West Virginia. This Court acknowledges that the Supreme Court of Appeals of West Virginia may reformulate all or any part of these questions.

WHEREFORE, the Court **ORDERS** that further proceedings in this matter are stayed until the questions have been decided by the Supreme Court of Appeals of West Virginia and the decisions are certified back to this Court. The Court **DIRECTS** parties to prepare a joint appendix of the record sufficient to permit review of the certified questions within 15 days of the entry of this Order.

The Court **FURTHER DIRECTS** the Circuit Clerk to send a certified copy of this Order along with a list of docket entries in this matter to the **Clerk of the Supreme Court of Appeals of West Virginia**. The Court **FURTHER DIRECTS** the Circuit Clerk to forward certified copies of this Order to **C. Casey Forbes, Clerk of the Supreme Court of Appeals of West Virginia**, and to counsel of record as listed below:

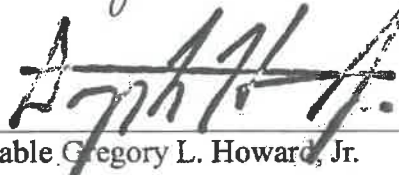
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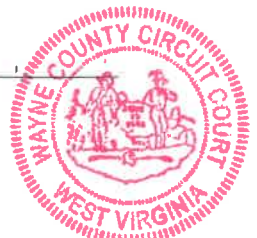
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ENTER this 13th day of February, 2024.


Honorable Gregory L. Howard, Jr.



Prepared by:

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