



OKLAHOMA STATE COURTS NETWORK

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TURNER v. OKLAHOMA GRAND RIVER DAM AUTHORITY, et al.

2026 OK 74

Case Number: 123241

Decided: 10/13/2026

THE SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2026 OK 74, __ P.3d __

NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL.

MICHAEL J. TURNER, Plaintiff/Appellee,

v.

OKLAHOMA GRAND RIVER DAM AUTHORITY, STATE OF OKLAHOMA, *ex rel.*, OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES, and GENTNER DRUMMOND, OKLAHOMA ATTORNEY GENERAL, in his official capacity, Defendants/Appellants.

APPEAL FROM THE DISTRICT COURT OF MAYES COUNTY, OKLAHOMA HONORABLE SHAWN TAYLOR, DISTRICT JUDGE

¶0 The district court entered a final judgment in an appeal from a final agency decision of the Civil Service Division of the Office of Management and Enterprise Services (OMES). The district court reversed OMES's decision and held that Plaintiff/Appellee Michael Turner had proved there was no reasonable basis for Defendant/Appellant Grand River Dam Authority (GRDA) to terminate his employment. The district court also determined that provisions of 62 O.S. § 34.301 and the corresponding administrative rules violated due process. Defendants OMES and GRDA each appealed. This Court retained the appeals for final decision.

JUDGMENT OF THE DISTRICT COURT REVERSED; FINAL AGENCY ORDER OF THE CIVIL SERVICE DIVISION OF THE OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES AFFIRMED

Randall E. Long and Austin T. Stiles, Rhodes, Hieronymus, Jones, Tucker & Gable, P.L.L.C., Tulsa, Oklahoma, for Appellant Oklahoma Grand River Dam Authority.

Garry M. Gaskins II, Zach West, Ellen Carr, Office of the Attorney General of the State of Oklahoma, Oklahoma City, Oklahoma, for Appellants State of Oklahoma, *ex rel.*, Office of Management and Enterprise Services and Attorney General Gentner Drummond.

Daniel J. Gamino, Daniel J. Gamino & Associates, P.C., Oklahoma City, Oklahoma, for Appellee Michael Turner.

JETT, J.:

¶1 In 2021, the Legislature enacted the Civil Service and Human Capital Modernization Act (Civil Service Modernization Act), 62 O.S. § 34.301. This procedural statute did not grant state employees a property interest in their continued employment. Thus, terminating a state employee under the Act does not implicate the Due Process Clauses of the United States and Oklahoma Constitutions.

¶2 The district court erred in concluding that Appellants violated due process by terminating Michael Turner. OMES followed the procedure set forth in 62 O.S. § 34.301 (2021) and the applicable administrative rules, which is the only process to which Turner is entitled.

¶3 The district court also erred in reversing OMES's determination that Turner failed to prove his state agency employer had no reasonable basis for terminating him. Turner was unable to perform his job duties due to a medical condition. GRDA placed Turner on temporary assignment for two years and offered Turner a permanent job that would have accommodated his medical condition. Turner rejected this permanent job offer. According to the Oklahoma Administrative Procedures Act (OAPA), OMES's decision upholding Turner's termination must be affirmed based on the administrative record in this case.

¶4 We reverse the district court's final judgment and affirm OMES's final agency order.

I.

A.

¶5 In May 2018, Michael Turner suffered a heart attack and had coronary bypass surgery. Turner was employed as a power plant maintenance technician and had worked for the Grand River Dam Authority since 2007. When he returned to work on July 23, 2018, Turner's doctor placed him on temporary work restrictions requiring that Turner not be exposed to coal dust, ash, or other significant particulate airborne matter. Prior to his medical emergency, Turner worked at a coal-fired power plant. His temporary work restriction meant that Turner could not perform his usual job duties due to exposure to particulate matter at the coal-fired plant.

¶6 GRDA placed Turner on special duty temporary assignment at GRDA's Pensacola Dam facility to accommodate his work restrictions. According to GRDA, the temporary assignment would have been compensated at \$26.22 per hour, but in this instance GRDA allowed Turner to keep his former job title and his compensation remained at \$32.79 per hour. GRDA renewed Turner's temporary assignment for a second year after his doctors continued their work-restriction recommendation.

¶7 During his two-year temporary assignment, GRDA encouraged Turner to apply for other positions at GRDA suitable to Turner's medical restrictions. During this two-year period, Turner applied for one position at GRDA, which he did not receive. GRDA concluded Turner was not the most qualified candidate.

¶8 At the conclusion of Turner's temporary assignment, he was directed to return to his position as a power plant maintenance technician. Although the two facilities were in close proximity, he was stationed at a natural gas-fired power facility, rather than at a coal-fired facility, because it was the cleanest work environment. GRDA sent Turner for a follow-up fitness for duty examination by Dr. Russell Green. Dr. Green determined Turner's work restrictions had become permanent. Turner was placed on administrative leave due to his medical condition on August 14, 2020. This was the last day Turner performed job duties for GRDA.

¶9 On August 26, 2020, GRDA CEO Dan Sullivan sent Turner a pre-termination hearing notice indicating GRDA was considering discharging Turner due to his inability to perform his job duties. In summary, Sullivan stated: "At this juncture, and after more than two years of temporary assignments and attempts to provide reasonable accommodations, there does not appear to be any other viable options." (R. at 256, Notice of Pre-Termination Hearing.)

¶10 But the pre-termination hearing never occurred. Turner filed a workers' compensation claim and was ultimately awarded eight weeks of temporary total disability benefits. Turner also exhausted his personal and shared leave. From September 2021 to February 2022, GRDA sent Turner at least thirty-five job postings for vacancies at GRDA, though few of these positions met Turner's medical restrictions, corresponded with his qualifications, and provided the same salary range. Turner did not apply for any of these vacancies.

¶11 On January 31, 2022, GRDA created a new position at the Pensacola Dam facility, the location of Turner's previous temporary assignment. CEO Dan Sullivan sent Turner a letter expressly offering him the position. The letter stated that the "starting base wage for this position is \$29.00 hourly." (R. at 353, Letter from Dan Sullivan to

Michael Turner (Jan. 31, 2022).) Turner had previously been paid \$32.79 per hour. Sullivan's letter invited Turner to accept the position. It is undisputed that the new Technician Senior position was compliant with Turner's medical restriction. It is also undisputed that Turner never inquired with GRDA whether the listed salary was negotiable. Instead, Turner chose not to respond to GRDA regarding the offered position.

¶12 On March 3, 2022, GRDA sent Mr. Turner a termination letter. In the letter, GRDA explained that Mr. Turner was discharged because he was no longer able to perform his job duties as a maintenance technician. It noted that GRDA offered Turner the Technician Senior position, "which would accommodate your medical restrictions and is a position that you had expressed interest in filling should it become available. You, however, did not accept this offer of accommodation." (R. at 356, Letter from Dan Sullivan to Michael Turner (Mar. 3, 2022).)

B.

¶13 On March 4, 2022, Turner sought administrative review of the termination decision at the Civil Service Division of OMES. The hearing on the merits was set for April 5, 2022. Three business days before the hearing, Turner issued discovery requests to GRDA. GRDA produced some documents in response to the discovery request the same day and withheld material that was privileged or outside the scope of what is permitted by the administrative rule. In a pre-trial hearing order, the administrative law judge (ALJ) approved seven witnesses proposed by Turner but struck three because they did not have direct testimony or other witnesses provided the same or better testimony. As to unproduced documents, including personnel files of other GRDA employees, the ALJ refused to compel the production of documents beyond Turner's disciplinary file.

¶14 After the merits hearing, the ALJ issued an order with findings of fact and conclusions of law finding Turner did not meet his burden of proof. The ALJ rejected Turner's procedural arguments and upheld GRDA's decision to discharge Turner. OMES issued its final agency order adopting the ALJ's decision on April 22, 2022. Turner filed a motion to reconsider, which was denied as untimely on May 9, 2022.

C.

¶15 On June 8, 2022, Mr. Turner filed a petition for judicial review in the Mayes County district court. The district court held that Turner had a "substantial interest" in his employment, and GRDA's termination of Turner violated due process. (R. at 653, 656, Dist. Ct. Final Or. at 11, 14.) The district court concluded that provisions of 62 O.S. § 34.301 and the accompanying regulations were unconstitutional. (*Id.* at 656.)

¶16 The district court also concluded Turner met his burden of proof that GRDA had no reasonable basis to discharge Turner. To support this holding the court found:

- (1) GRDA did not comply with the interactive process contemplated by federal administrative regulations promulgated to implement the Americans with Disabilities Act;
- (2) the job vacancy notices failed to provide Turner a meaningful opportunity to obtain an appropriate accommodation with commensurate pay; and
- (3) GRDA accommodated similarly situated employees or had the ability to do so.

(*Id.* at 654--55.) Despite holding Turner had proved there was no reasonable basis for his termination, the district court reversed and remanded with instructions to allow more evidence and to give Mr. Turner more time to prosecute his complaint. (*Id.* at 657.)

¶17 GRDA and OMES each filed a petition in error to appeal the district court judgment. This Court consolidated the two appeals.

II.

¶18 The Civil Service Modernization Act contemplates that most state employees may file complaints arising from disciplinary action by state agency employers. 62 O.S. § 34.301(B)(3) & (D) (2021). ¹ Disciplinary action is broadly defined to include "termination, suspension without pay, involuntary demotion, punitive transfers or written reprimand." *Id.* § 34.301(G) (2021). It is the employee's heavy burden to "prove that there was no reasonable basis for the disciplinary action by the state agency" by a preponderance of the evidence. *Id.* § 34.301(D) (2021); Okla. Admin. Code § 260:130-7-4(f) (2021) (subsequently amended). ² If the employee meets their burden of proof, the "ALJ may order the reinstatement of the employee, with or without back pay and other benefits" *Id.* § 260:130-7-4(f)(B) (2021).

A.

¶19 The district court erred in holding that the procedural framework set forth in the Civil Service Modernization Act and its accompanying regulations violates due process. Turner does not possess a constitutionally protected interest in continued public employment subject to procedural requirements of the Due Process Clauses of the United States and Oklahoma Constitutions.

¶20 The Due Process Clauses provide that no person shall be deprived of "life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1; Okla. Const. art. 2, § 7. The due process inquiry in the public employment context presents the threshold question of whether the employee possesses a protected property interest in continued employment. *Braitsch v. City of Tulsa*, 2018 OK 100, ¶ 4, 436 P.3d 14, 18. Mr. Turner must establish a property interest in his employment with the GRDA; otherwise, there is no due process issue at all. See *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 569 (1972).

¶21 Property interests are not created by the United States or Oklahoma Constitutions. *Roth*, 408 U.S. at 577; *Wood v. Indep. Sch. Dist. No. 141 of Pottawatomie Cnty.*, 1983 OK 30, ¶ 9, 661 P.2d 892, 894. A property interest in continued public employment must derive from an independent source such as state law. *Barnhouse v. City of Edmond*, 2003 OK 42, ¶ 11, 73 P.3d 840, 847. Procedural detail in a statute or regulation will not on its own create a protected property interest. *Hennigh v. City of Shawnee*, 155 F.3d 1249, 1254 (10th Cir. 1998). Instead, the statute or regulation must place a substantive restriction on the employer's discretion to terminate an employee such that the employee has a legitimate expectation of continued employment. *Id.* at 1254. Substantive restrictions creating a legitimate expectation of continued employment include statutes and regulations that "specif[y] the grounds on which an employee may be discharged, or restrict[] the reasons for discharge to 'just cause shown[.]'" *Asbill v. Hous. Auth. of Choctaw Nation*, 726 F.2d 1499, 1502 (10th Cir. 1984); see also *Earles v. Cleveland*, 825 Fed. Appx. 544, 550 (10th Cir. 2020) ("This usually requires tenure, an employment contract for a definite term, a clearly implied promise of continued employment, or a statute, regulation, or state-law-endorsed collective bargaining agreement that requires cause (or similar concepts) for termination.").

¶22 Turner argues the Legislature preserved his property interest in continued public employment with the passage of the Civil Service Modernization Act. Accepting Turner's argument, the district court concluded that Turner had a constitutionally protected property interest in continued public employment because "[s]ome proof that a reasonable basis exists for the adverse action is required to be established regardless of which party has the assigned burden of proof." (R. at 652, Dist. Ct. Final Or. at 10.) The district court also relied on the "right of complaint" purportedly allowed by the administrative rules implementing the Civil Service Modernization Act to conclude that Turner had a protected property interest. (*Id.* at 656.)

¶23 The district court's conclusion that the Civil Service Modernization Act and the related administrative rules establish a property interest in continued public employment is mistaken. The Civil Service Modernization Act neither "specifies the grounds on which an employee may be discharged" nor "restricts the reasons for discharge to just cause shown" *Asbill*, 726 F.2d at 1502 (citation modified). Instead, the Modernization Act leaves personnel decisions to the judgment of state agencies "prohibiting only . . . decisions which are clearly arbitrary or capricious,"--i.e. decisions for which there is no reasonable basis. *Hall v. O'Keefe*, 1980 OK 108, ¶ 8, 617 P.2d 196, 200. The statute and regulations that apply to this case simply do not rise to the level of a substantive restriction on an employer's discretion to terminate its employee. See *Hall*, 1980 OK 108, ¶ 10, 617 P.2d at 200.

¶24 *Hall v. O'Keefe* demonstrates that not all statutes governing public employment terminations create a property interest in continued employment triggering due process. 1980 OK 108, ¶ 10, 617 P.2d at 200. In *Hall*, two police officers challenged their termination and argued they were deprived of due process of law. *Id.* ¶ 2, 617 P.2d at 198. Under a different statutory provision, the city manager could fire a police officer "solely for the good of the service" or "when necessary for the good of the service." *Id.* ¶ 4, 617 P.2d at 198. The district court reasoned that restricting terminations to those "solely for the good of the service" was synonymous to "cause" and a criterion for removal limiting the city manager's discretion. *Id.* ¶ 4, 617 P.2d at 198--99. The district court held the relevant statute created a property interest in continued employment for the employee. *Id.*

¶25 This Court reversed and held the statutory provision did not create a property interest in employment to trigger application of the Due Process Clause of the Oklahoma Constitution. *Id.* ¶ 10, 617 P.2d at 200; see also *Graham v. City of Okla. City*, 859 F.2d 142, 146 (10th Cir. 1988) (applying *Hall* to conclude that termination for the good of the service does not create a property interest under U.S. Const. amend. XIV). The *Hall* court explained: "it seems that the legislature left the personnel matters . . . to the judgment of the city manager . . . prohibiting only . . . decisions which are clearly arbitrary or capricious." *Id.* ¶ 8, 617 P.2d at 200.

¶26 The result in this case is even more straightforward than *Hall*. While the text of the relevant statute in *Hall* contained an arguable criterion for removal--"solely for the good of the service"--section 34.301 imposes no express condition for termination. Instead, the trial court improperly transformed an employee's burden of proof--"[e]mployees . . . shall prove that there was no reasonable basis" for the termination--into a criterion that all terminations must qualify as reasonable. But that is not what the statute says. Section 34.301 does not articulate criteria for removal that could create a property interest in continued public employment, and we reject Petitioner's invitation to imply a property interest from an employee's burden of proof. ³

¶27 *Hall* also demonstrates that the Civil Service Modernization Act does not limit a public employer's discretion to terminate an employee in a constitutionally significant manner. Instead, state agencies retain discretion to determine whether termination is appropriate. In this case, the trial court erred in focusing on the Civil Service Modernization Act's provision for post-termination complaints to OMES. The test is not whether an employee is given the opportunity to lodge a post facto complaint, but whether an employer's discretion in personnel decisions is substantively restricted. "[O]nly state law regarding substantive restrictions on the employer's discretion is relevant to the property interest determination." *Campbell v. Mercer*, 926 F.2d 990, 993 (10th Cir. 1991) (discussing *Asbill*, 726 F.2d at 1502). While Turner could seek administrative review of the personnel decision, this opportunity does not limit the GRDA's termination discretion. "By themselves . . . these procedural protections do not support a 'legitimate claim of entitlement' to future employment." *Asbill*, 726 F.2d at 1502.

¶28 Under § 34.301, the default presumption is that a reasonable basis for the termination exists. The agency has no duty to negate a complainant's legal theories to prevail in the administrative proceeding. Only when an employee can prove that no reasonable basis exists for the termination is any relief afforded. This stringent burden placed on terminated employees does not hinder the discretion of an employer in a constitutionally significant manner. As in *Hall*, "the legislature left the personnel matters . . . to the judgment of" state agencies "prohibiting only . . . decisions which are clearly arbitrary or capricious." *Id.* ¶ 8, 617 P.2d at 200. The text of § 34.301 does not create a property interest in continued public employment.

¶29 Our former precedent discovering a property interest arising from the Oklahoma Personnel Act, which was repealed and has been replaced by the Civil Service Modernization Act, does not support Turner's quest to establish a property interest in this case. In *Oklahoma Public Employees Ass'n v. Oklahoma Military Dep't*, 2014 OK 48, ¶ 20, 330 P.3d 497, 505, the Oklahoma Supreme Court concluded that permanent classified employees had a property interest in continued employment. But in that case, the now repealed statute provided specific bases for termination:

Any employee in the classified service may be discharged, suspended without pay for not to exceed sixty (60) calendar days, or demoted by the agency, department, institution, or officer by whom employed, for misconduct, insubordination, inefficiency, habitual drunkenness, inability to perform the duties of the position in which employed, willful violation of the Oklahoma Personnel Act, the Merit Rules for Employment or of the rules prescribed by the Oklahoma Merit Protection Commission, conduct unbecoming a public employee, conviction of a crime involving moral turpitude, or any other just cause.

74 O.S. § 840-6.5(C) (repealed). The Oklahoma Personnel Act stands in distinct contrast with the Civil Service Modernization Act. Unlike the Modernization Act, the old Oklahoma Personnel Act established specific bases for termination and limited discharge to just cause. The old statute included textbook language for creating a property interest, but that language is notably absent from the Civil Service Modernization Act. *Oklahoma Military Dep't* is inapposite and lends no support to the contention that Turner has a property interest in continued public employment under the Civil Service Modernization Act.

¶30 Considering *Hall* and *Oklahoma Military Dep't*, it is apparent that the Legislature did not intend to create a property interest in employment for the vast majority of Oklahoma's 31,000 state employees with the enactment of 62 O.S. § 34.301(D).⁴ First, the Legislature did not mandate that employees be discharged only for "just cause," and § 34.301(D) does not include specific discharge criteria. See *Asbill*, 726 F.2d at 1502. If the Legislature had intended to create a property interest in public employment, it would have used the words recognized to create a property interest like it has in the past. Compare 62 O.S. § 34.301(D) (missing a substantive restriction on the discretion of an employer to terminate a state employee), with 74 O.S. 840-6.5(C) (requiring cause to terminate a classified employee).

¶31 Second, the statutory termination procedure created by the Legislature is inconsistent with the existence of a property interest. For instance, if an employee has a property interest in their employment, then they are entitled to a pre-termination hearing. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985). The statutory scheme in 62 O.S. § 34.301 provides for only a post-termination hearing with a heavy burden on the terminated employee. If the Legislature intended to create a property interest, it would have fashioned a termination procedure following the traditional procedure for terminating an employee with a property interest in public employment.

¶32 It is within the Legislature's prerogative to grant (or take away) property interests in continued state employment. See *Dibble v. Quinn*, 793 F.3d 803, 809--810 (7th Cir. 2015); *Correa-Ruiz v. Fortuno*, 573 F.3d 1, 14--15 (1st Cir. 2009); *Rea v. Matteucci*, 121 F.3d 483, 485 (9th Cir. 1997); *McMurtray v. Holladay*, 11 F.3d 499, 504 (5th Cir. 1993); *Gattis v. Gravett*, 806 F.2d 778, 781 (8th Cir. 1986). We hold that the Legislature did not grant or extend a property interest in continued state employment with the passage of 62 O.S. § 34.301.

B.

¶33 Since Turner does not possess a property interest in continued public employment, he cannot establish that the procedural framework established by the Civil Service Modernization Act and its implementing regulations violates the Due Process clauses. A litigant who does not possess a constitutionally protected interest is entitled only to the procedure set forth by the legislative or regulatory scheme. *Sipes v. United States*, 744 F.2d 1418, 1420 (10th Cir. 1984) ("[I]f a property or liberty interest is not implicated, '[a public employee] must settle for whatever procedures are provided by statute or regulation.'" (quoting *The Constitutional Rights of Public Employees*, 97 Harv. L. Rev. 1738, 1781 (1984))).

¶34 Turner has not demonstrated that Appellants violated the post-termination hearing procedure now applicable to terminated public employees in Oklahoma. The timeline for the hearing was consistent with 62 O.S. § 34.301(C) (2021). Turner was not prohibited from calling the witnesses allowed by Okla. Admin. Code § 260:130-7-1(c) (2021), and we conclude the administrative law judge did not abuse his discretion in allowing certain additional witnesses but not others. See *id.* § 260:130-7-1(e) (2021).⁵ Finally, Turner failed to establish he was deprived of access to documents properly considered in Civil Service Division proceedings under the administrative rules in effect. *Id.* § 260:130-7-1(d)-(e) (2021).

¶35 We reverse the district court's holding striking down the procedural framework for post-termination hearings in 62 O.S. § 34-301 and Okla. Admin. Code § 260:130-7-4 & 130-7-1 as unconstitutional. The district court's due process analysis and remedy were erroneous in all respects. The procedural framework established in the Civil Service Modernization Act does not facially violate the Due Process Clause and is not unconstitutional as applied in this case. There was no basis for the district court to remand this case to OMES for more process. Turner was afforded the process he was entitled by the legislative and regulatory scheme.

III.

¶36 In addition to mistakenly concluding the Civil Service Modernization Act violates due process, the district court also reversed OMES's decision on the merits of Turner's complaint. The district court concluded there was no reasonable basis for GRDA to terminate Turner and reversed OMES's decision to uphold Turner's termination. The district court's decision on the merits was reversible error. First, the district court misconstrued Turner's burden of proof. Second, the district court misapplied the standard of review and substituted its judgment for OMES's.

A.

¶37 Our review of the district court's final judgment is governed by the OAPA. 75 O.S. §§ 322--23. This Court conducts the same review of the administrative record performed by a district court. See *City of Tulsa v. State ex rel. Public Emps. Rels. Bd.*, 1998 OK 92, ¶ 12, 967 P.2d 1214, 1219.

¶38 We review the legal rulings of both the agency and the district court de novo. *Leo v. Okla. Water Res. Bd.*, 2023 OK 96, ¶ 9, 536 P.3d 939, 945. A question of statutory interpretation is a legal question. *State ex rel. Okla. State Dept. of Health v. Robertson*, 2006 OK 99, ¶ 5, 152 P.3d 875, 877. We will affirm an agency's order "if the record contains substantial evidence in support of the facts upon which the decision is based, and if the order is otherwise free of error." *Okla. Dep't of Pub. Safety v. McCrady*, 2007 OK 39, ¶ 10, 176 P.3d 1194, 1201.

B.

¶39 The district court misconstrued Turner's burden of proof based on an erroneous interpretation of the relevant statute and its accompanying regulation. When a state employee challenges their termination, "[t]he burden of proof shall be upon the complainant who must prove his or her case by a preponderance of the evidence." Okla. Admin. Code § 260:130-7-4(f) (2021). The employee must prove there was no reasonable basis for the state agency's termination. 62 O.S. § 34.301(D).

¶ 40 The statutory mandate that a terminated employee must prove that "no reasonable basis" for termination exists necessarily contemplates that there may be multiple bases for terminating an employee. To prevail, an aggrieved employee must show that *none* of the reasons for the disciplinary action were reasonable (i.e. that every basis for termination was unreasonable). Cf. *Rouse v. Okla. Merit Prot. Comm'n*, 2015 OK 7, ¶ 22, 345 P.3d 366, 375. ⁶

¶41 The district court erred by failing to review each basis for termination independently. Instead, the district court mistakenly analyzed whether, in the court's own judgment, the termination was unreasonable in its entirety. (R. at 654, Dist. Ct. Final Or. at 12.) The district court's error in reasoning is apparent on the face of its final judgment:

Taken in a vacuum, GRDA's termination could be determined reasonable based on the following limited facts:

1. Plaintiff's permanent restrictions of GRDA's physician prevented Plaintiff from working in his former position.
2. GRDA offered and Plaintiff refused the January 31, 2022, offer for a different job.

(R. at 654, Dist. Ct. Final Or. at 12.) However, immediately thereafter, the district court concluded, "[a]dditional facts . . . establish that termination under these limited facts is unreasonable." (*Id.*)

¶42 The district court's acknowledgement that there are facts that establish a reasonable basis for terminating Mr. Turner should have ended the analysis. If there are facts establishing a reasonable basis for termination, Turner cannot, as a matter of law, prove there was "no reasonable basis" for his termination. By misinterpreting the statute and regulation to require an overall reasonableness inquiry, the district court failed to hold Turner to the burden of proof required by 62 O.S. § 34.301(D) and Okla. Admin. Code § 260:130-7-4(f) (2021). The district court's interpretation of these provisions was legally erroneous and warrants remand with instructions to affirm the OMES decision.

C.

¶43 The district court also failed to apply the appropriate standard of review to OMES's final agency order. As noted, the OAPA governs our review of the district court's final judgment and establishes the standard by which we review agency decisions. 75 O.S. §§ 322--23. An agency order may be reversed when the "agency findings, inferences, conclusions or decisions are . . . clearly erroneous in view of the reliable, material, probative and substantial competent evidence" or "arbitrary or capricious." 75 O.S. § 322(1)(e)--(f). "In reviewing an administrative order our province is not to determine whether, in the first instance, this Court would reach the same result as the administrative agency." *Cox v. State ex rel. Okla. Dep't of Hum. Servs.*, 2004 OK 17, ¶ 29, 87 P.3d 607, 618. The same standard applies to a district court's review of a final agency order.

¶44 A district court may not "substitute[] its judgment for that of [an agency] as to the weight and effect of the evidence" *Bd. of Exam'rs of Veterinary Med. v. Mohr*, 1971 OK 64, ¶ 22, 485 P.2d 235, 240. Or said another way, "the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence." *Samedan Oil Corp. v. Cotton Petroleum Corp.*, 466 F.Supp. 521, 525 (W.D. Okla. 1978).

¶45 In this case, the ALJ's order, which was adopted by OMES, concluded that "Mr. Turner did not meet his burden of proof and the action of the GRDA in proceeding with his termination is upheld." (R. at 17, ALJ Order at 4). The evidence demonstrates:

- (1) Turner was medically unable to perform his duties as a power plant maintenance supervisor;
- (2) GRDA gave Turner a special duty assignment for two years that accommodated his medical restrictions;
- (3) GRDA offered Turner an open position as an inventory manager with starting pay of \$29.00 per hour that accommodated his medical restrictions;
- (4) Turner rejected the position because the position he could no longer perform had paid \$32.79 per hour;
- (5) Turner never attempted to negotiate higher pay for the inventory position; and
- (6) Turner never responded to GRDA's job offer.

Only after this series of events was Turner terminated by GRDA.

¶46 Based on this competent evidence, we cannot agree that OMES's decision was clearly erroneous, arbitrary, or capricious. There is unquestionably competent evidence to support OMES's determination that Turner did not meet his burden to prove there was no reasonable basis for GRDA to terminate him.

¶47 The district court's reversal of OMES's final agency order resulted from improperly reweighing the evidence as if it was the district court's province to determine whether Turner met his burden of proof in the first instance. Specifically, the district court found it particularly important that there was an alleged violation of the Americans with Disabilities Act. That the district court placed any weight on this evidence is legally suspect because OMES has no statutory authority to adjudicate ADA claims. See, e.g., *Martinez v. N.M. State Eng'r Office*, 2000-NMCA-

074, ¶ 27, 129 N.M. 413, 419, 9 P.3d 657, 663 (holding that the New Mexico State Personnel Board, without express authority from a statute or administrative regulation, did not have jurisdiction to entertain ADA claims as a body of limited jurisdiction). ⁷

¶48 Nonetheless, the evidentiary record demonstrates that OMES considered the substantial interaction between Turner and GRDA about finding a position that accommodated his medical condition. The interaction came to a halt when GRDA offered Turner a suitable open position and he failed to respond. The district court seems to have found the alleged factual predicate for an alleged ADA violation to be more probative than OMES, but this is simply reweighing evidence. The district court's reference to alleged ADA violations (and its apparent view that GRDA should have done more to accommodate Turner) does not change the fact that OMES's decision was supported by competent evidence and was not clearly erroneous, arbitrary, or capricious.

¶49 The same applies to the district court's consideration of job vacancies that were sent to Mr. Turner and its conclusion that the GRDA failed to provide meaningful opportunities for Mr. Turner's physical accommodations to be met. OMES apparently found it more probative that the GRDA offered Turner an open position that complied with his medical restrictions immediately before he was terminated. Even if the district court would have reached a different conclusion in the first instance, it is prohibited from reweighing the evidence and countermanding the agency's decision unless the decision is clearly erroneous. Evidence about the job vacancies was duly considered by OMES and does not support reversal of the final agency order.

¶50 Finally, the district court relied on purported accommodations provided to similarly situated GRDA employees to reverse OMES. Turner testified about an employee with lung disease who was allowed to work remotely during the COVID-19 pandemic and was transferred to a different location. But evidence about GRDA's treatment of another employee with medical conditions does little to establish that no reasonable basis existed for terminating Turner. GRDA did, in fact, attempt to accommodate Turner both by placing him on two years of temporary assignment and by offering him a permanent position compatible with his medical restrictions. GRDA terminated Turner after he effectively rejected a permanent position, and nothing in the record points to any other similarly situated GRDA employee who rejected a permanent accommodation. Simply put, evidence of GRDA's treatment of other employees with medical conditions does not support the conclusion that there was no reasonable basis for GRDA to terminate Turner. It certainly does not show that OMES's decision was clearly erroneous, arbitrary, or capricious.

¶51 Under the standard of review mandated by the OAPA and applying the proper burden of proof applicable to Turner, we conclude that the trial court erred in reversing OMES's final agency order upholding GRDA's termination of Turner. Turner failed to prove that there was no reasonable basis for his termination. OMES's order was supported by competent evidence and was not clearly erroneous, arbitrary, or capricious.

IV.

¶52 Turner does not have a property interest in his continued employment so the Due Process Clauses have no application in this case. Turner was afforded the process to which he was entitled pursuant to 62 O.S. § 34.301 and the effective administrative rules. OMES's decision that Turner failed to meet his burden to prove there was no reasonable basis for his termination was supported by competent evidence and was not clearly erroneous, arbitrary, or capricious. The district court's decision to the contrary was legally incorrect, and we reverse.

JUDGMENT OF THE DISTRICT COURT REVERSED; FINAL AGENCY ORDER OF THE CIVIL SERVICE DIVISION OF THE OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES AFFIRMED

Rowe, C.J., Winchester, Edmondson, Combs, Gurich, Darby, Kane and Jett, JJ -- Concur

Kuehn, V.C.J. -- Concur in Result

FOOTNOTES

¹ 62 O.S. § 34.301 was enacted in 2021 and became effective January 1, 2022. 2021 Okla. Sess. Laws Ch. 206, § 1. Turner was terminated, the ALJ ruled, and OMES entered their final order while the 2021 version of the law was in effect. Since then, § 34.301 has been amended multiple times. 2022 Okla. Sess. Laws Ch. 243, § 1; 2023 Okla. Sess. Laws Ch. 134, § 1; 2025 Okla. Sess. Laws Ch. 319, § 1. None of these amendments are relevant to the resolution of this case.

² Okla. Admin. Code § 260:130-7-4 became effective as an emergency rule on November 17, 2021. 39 Okla. Reg. 227 (Dec. 15, 2021) (emergency). The rule became permanent on September 1, 2022. 39 Okla. Reg. 1166 (Sep. 1, 2022). It has subsequently been amended on several occasions. 40 Okla. Reg. 2149 (Sep. 1, 2023); 41 Okla. Reg. 1273 (Aug. 1, 2024); 43 Okla. Reg. 2435 (Aug. 17, 2026) (emergency). The requirement that "[t]he burden of proof shall be upon the complainant who must prove his or her case by a preponderance of the evidence" has remained unchanged. Okla. Admin. Code § 260:130-7-4(f) (2021); *id.* § 260:130-7-4(h) (2026). The same is true for the ALJ's authority to reinstate an employee. Okla. Admin. Code § 260:130-7-4(f)(B) (2021); *id.* § 260:130-7-4(h)(2) (2026).

The ALJ's decision and OMES's final agency order were both issued while the emergency rules, published at 39 Okla. Reg. 227, were in place. We apply the emergency rules in our review of OMES's final agency order.

³ Procedural detail in a statute or regulation will not on its own create a protected property interest, *Hennigh*, 155 F.3d at 1254, and Petitioner cites no authority recognizing that a property interest is created by an employee's burden of proof in a post-termination hearing.

⁴ Neither do the administrative regulations implementing the Act create a due process-triggering property interest. The administrative rules by their express language do not substantively restrict a state agency's discretion to terminate employees.

⁵ As noted, the administrative rules have been amended on several occasions since their original promulgation. *See supra* n.2; *see also* 42 Okla. Reg. 2859 (Jul. 15, 2025). Since the original promulgation of the rules, the witnesses allowed to testify have included the human resources director, the supervisor, and the employee bringing the complaint, and the ALJ has had discretion to allow additional witnesses. Okla. Admin. Code § 260:130-7-1(e) (2021); *id.* § 260:130-7-4(f)(4) (2026).

⁶ In *Rouse*, the Oklahoma Supreme Court reviewed an employee termination under the more stringent requirements of the Oklahoma Personnel Act, which are inapplicable in this case. There were multiple bases for termination, including inefficiency and three event-specific shortcomings--incomplete work assignments, incompetence in handling an alarm event, and inattentiveness to a costly leak event. 2015 OK 7, ¶ 7, 345 P.3d at 371. The Court concluded, "Even if the three reasons as stated above had not occurred, the employee's inefficiency of the repetitive behavior of wasting time smoking and reading year after year while at work would have been more than adequate just cause for termination." *Id.* ¶ 22, 345 P.3d at 375. With this as a backdrop, it is apparent that the Legislature's mandate in 62 O.S. § 34.301(D) that an employee must prove there "was no reasonable basis for the disciplinary action" means that an employee must disprove all bases for termination to obtain relief.

⁷ Even if OMES could hear these claims, Turner misconstrues what constitutes a violation of the ADA. Contrary to the district court's suggestion, "failure to engage in an interactive process is not independently actionable under the [ADA]." *Brigham v. Frontier Airlines, Inc.*, 57 F.4th 1194, 1201 (10th Cir. 2023).

Citationizer: Table of Authority

Cite Name	Level
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The Court of Appeals for the State of New Mexico Decisions

Cite	Name	Level
<u>2000 NMCA 74</u> , <u>9 P.3d 657</u> , <u>129 N.M.</u> <u>413</u> ,	<u>Martinez v. New Mexico State Eng'r Office</u>	Cited

Oklahoma Supreme Court Cases

Cite	Name	Level
<u>1971 OK 64</u> , <u>485 P.2d 235</u> ,	<u>BOARD OF EXAMINERS OF VETERINARY MEDICINE v. MOHR</u>	Discussed
<u>2003 OK 42</u> , <u>73 P.3d 840</u> ,	<u>BARNTHOUSE v. CITY OF EDMOND</u>	Discussed
<u>2004 OK 17</u> , <u>87 P.3d 607</u> ,	<u>COX v. STATE ex rel. DEPT. OF HUMAN SERVICES</u>	Discussed
<u>2006 OK 99</u> , <u>152 P.3d 875</u> ,	<u>STATE ex rel. OKLA. STATE DEPT. OF HEALTH v. ROBERTSON</u>	Discussed
<u>2007 OK 39</u> , <u>176 P.3d 1194</u> ,	<u>OKLAHOMA DEPARTMENT OF PUBLIC SAFETY v. McCRADY</u>	Discussed
<u>2014 OK 48</u> , <u>330 P.3d 497</u> ,	<u>OKLAHOMA PUBLIC EMPLOYEES ASSOC. v. OKLAHOMA MILITARY DEPT.</u>	Discussed
<u>2015 OK 7</u> , <u>345 P.3d 366</u> ,	<u>ROUSE v. OKLAHOMA MERIT PROTECTION COMMISSION</u>	Discussed at Length
<u>1980 OK 108</u> , <u>617 P.2d 196</u> ,	<u>Hall v. O'Keefe</u>	Discussed at Length
<u>2018 OK 100</u> , <u>436 P.3d 14</u> ,	<u>BRAITSCH v. CITY OF TULSA</u>	Discussed
<u>2023 OK 96</u> , <u>536 P.3d 939</u> ,	<u>LEO v. OKLAHOMA WATER RESOURCES BOARD</u>	Discussed
<u>1998 OK 92</u> , <u>967 P.2d 1214</u> , <u>69 OBJ</u> <u>3242</u> ,	<u>City of Tulsa v. State ex rel. Public Employees Relations Board</u>	Discussed
<u>1983 OK 30</u> , <u>661 P.2d 892</u> ,	<u>Wood v. Independent School Dist. No. 141 of Pottawatomie County</u>	Discussed

Title 62. Public Finance

Cite	Name	Level
<u>62 O.S. 34.301</u> ,	<u>Civil Service and Human Capital Modernization Act - State Employee</u> <u>Dispute Resolution Program</u>	Discussed at Length

Title 74. State Government

Cite	Name	Level
<u>74 O.S. 840-6.5</u> ,	<u>Repealed</u>	Cited

Title 75. Statutes and Reports

Cite	Name	Level
<u>75 O.S. 322</u> ,	<u>Setting Aside, Modifying, or Reversing of Orders - Remand - Affirmance</u>	Discussed at Length