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Employment Law

Mixed Results on Collateral Estoppel in the Eastern District

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There may be a controversy brewing in the Eastern District of Pennsylvania. The issue stems from a recent decision regarding the preclusive effect of administrative proceedings from the Unemployment Compensation Board of Review (UCBR) in a subsequent federal court discrimination lawsuit alleging similar facts. The results are two starkly different interpretations of a longstanding Pennsylvania Supreme Court precedent by members of the same court.

The case at hand is *Mathis v. Christian Heating and Air Conditioning*, PICS Case No. 14-1644 (E.D. Pa. Oct. 7, 2014) DuBois, J. (26 pages). Let us first start with the background. In *Mathis*, the plaintiff, Paul Mathis, sued his former employer under Title VII, alleging that he was denied a reasonable religious accommodation and suffered a retaliatory discharge due to his religious beliefs and request for a reasonable accommodation. The employer, Christian Heating and Air Conditioning Inc., asked the court to dismiss the claims, arguing that Mathis already received a full and fair opportunity to litigate the identical issues in his underlying unemployment claim and therefore was collaterally estopped.

From a procedural standpoint, Mathis was represented by counsel, as was the employer, at a hearing before an unemployment referee. At the hearing, there was testimony presented by both sides and a written decision was rendered by the referee denying Mathis' claim for unemployment benefits. The referee made the following findings of fact:

- Mathis worked for Christian Heating and Air Conditioning as a full-time sheet metal installer from April 26, 2010, until Jan. 23, 2012, with a final rate of pay of \$25 per hour.
- "The employer maintains a mission statement which includes a religious goal.
- "The employee identification badge contained the mission statement at the time that the claimant was hired.
- "The employer does not require that employees share the owners' religious beliefs.

- "The claimant had not informed the employer he had any issue with the employer's mission statement."
- On Jan. 23, 2012, the employer's owner discovered Mathis had covered the mission statement, located on the back of the badge, with duct tape. When asked why, Mathis said the statement "was against his religious freedom."
- "The owner told the claimant to remove the duct tape or he could leave."
- "The claimant chose to leave and the work relationship ended."

According to the U.S. District Court for the Eastern District of Pennsylvania opinion, Mathis filed an appeal for review of the UCBR's order to the Commonwealth Court. The Commonwealth Court reviewed and upheld the findings of the UCBR. The Commonwealth Court concluded that there was substantial evidence to support the UCBR's conclusion that Mathis had been offered a "real choice between alternatives"—either removing the tape and continuing employment or choosing to leave and thus ending the work relationship. (See *Mathis v. Unemployment Compensation Board of Review*, 64 A.3d 293, 299 (Pa. Cmmw. Ct. 2013).) As a result, the Commonwealth Court upheld the UCBR's determination that Mathis had voluntarily quit his employment under Section 402(b) of Pennsylvania's Unemployment Compensation Act.

In order to determine eligibility under Section 402(b), the Commonwealth Court then turned to the issue of whether Mathis had a necessitous and compelling reason for voluntarily resigning his employment. The court noted that an actual conflict between a claimant's sincerely held religious beliefs and his employment conditions could constitute a necessitous and compelling reason to leave employment; however, the court found that Mathis had offered no evidence of his sincere religious beliefs nor had he described "any actual conflict between a religious belief and the employer's requirement that the identification badge bearing the mission statement be worn." The court also found that Mathis had not offered any evidence that he had been harassed for his religious beliefs, that he had previously informed management of a conflict, or that he had requested an accommodation. The court therefore held he had not carried the burden of showing a necessitous and compelling cause for leaving his employment and upheld the UCBR's denial of unemployment compensation benefits.

With this backdrop, the district court in *Mathis* applied the test to determine if collateral estoppel was proper. Here, the *Mathis* court concluded the issues were identical; there was a final adjudication on the merits; Mathis was a party in the prior action; and Mathis possessed a full and fair opportunity to litigate. Consequently, Mathis' Title VII claims of religious discrimination were precluded. In outlining its rationale, the court distinguished the longstanding decision of the state Supreme Court in *Rue v. K-Mart*, 713 A.2d 82 (Pa. 1998).

Since 1998, *Rue* has stood for the proposition that an unemployment referee's factual findings did not have preclusive effect in a later suit against the employer because the employer had not had a full and fair opportunity to litigate the factual issue in the unemployment compensation proceedings. As noted by the opinion in *Mathis*, the Supreme Court concluded in *Rue* that the employer, K-Mart Corp., had not had a full and fair opportunity to litigate the issue because of the "fast and informal nature" of the proceedings before the referee and because K-Mart had little incentive to vigorously litigate due to the "negligible economic consequences" of the proceeding.

The reasoning that underpins the Supreme Court's refusal to apply issue preclusion in *Rue* has been routinely applied in federal court cases since 1998. In fact, the *Mathis* opinion said as much in footnote 4 wherein the judge noted two cases from the Eastern District of Pennsylvania in which the court interpreted *Rue* as denying preclusive effect to all findings in unemployment compensation proceedings (*Francis v. Atlas Machining and Welding*, No. 11-6487 (E.D. Pa. Feb. 15, 2013) (citing *Rue* as holding that Pennsylvania courts do not apply the doctrine of issue preclusion in the unemployment compensation context) and *Torres v. EAFCO*, No. 00-2846 (E.D. Pa. Jan. 17, 2001) (citing *Rue* and concluding that "because the courts of Pennsylvania no longer apply the doctrines of preclusion in the unemployment compensation context, we will not do so here").

Enter the controversy. In one swoop, the *Mathis* court swiftly dispensed with the rationale of its brethren in the Eastern District by disclaiming that "these decisions were based on an overly broad reading of the Pennsylvania Supreme Court's holding in *Rue*." The opinion went on to comment that "*Rue* neither provides a blanket exception to collateral estoppel to unemployment compensation proceedings nor supports plaintiff's view that collateral estoppel does not apply in this action."

This is the point of deviation between the *Mathis* court and the firmly etched principles of *Francis*, *Torres* and, quite obviously, *Rue*. There are several factors at play in this decision. First, unlike the administrative findings in *Rue* where there was no appeal from the referee's findings, there was an actual review by an appeals court in *Mathis*, which the judge deemed noteworthy from a procedural due process standpoint. On that point, however, Section 509 of the Unemployment Compensation Act specifically provides that: "No finding of fact or law, judgment, conclusion or final order made with respect to a claim for unemployment compensation under this act may be deemed to be conclusive or binding in any separate or subsequent action or proceeding in another forum." The act makes no distinction between findings from a referee versus a final order from a reviewing court. Clearly, the legislature intended that the final decisions by a referee or the UCBR not be subject to collateral attack. Remarkably, on the very topic of issue preclusion, Section 509 is not discussed anywhere in the court's opinion.

Second, the *Mathis* court suggests the purpose of the unemployment compensation law, like Title VII, is to redress employees whose free exercise of religion has been burdened in the workplace. This seems to be a stretch considering the unemployment system is specifically designed to adjudicate matters quickly, because one of its primary goals is to get "money into the pocket of the unemployed worker at the earliest point that is administratively feasible," according to *California Department of Human Resources Development v. Java*, 402 U.S. 121, 136 (1971). (See also *McNeill v. Unemployment Compensation Board of Review*, 510 Pa. 574, 579 (1986); and *Swineford v. Snyder County, Pa.*, 15 F.3d 1258, 1268-69 (3d Cir. 1994).) Further, there are significant factors that distinguish unemployment compensation proceedings from court proceedings. Proceedings before a referee are, by design, brief and informal in nature.

The *Mathis* opinion presents a prime example of a case ripe for appellate review. There is now a clear disagreement among judges in the Eastern District when it comes to interpreting issue preclusion. Affording preclusive effect to unemployment findings can have more serious, far-reaching consequences, not just for employees, but for employers as well, as they would be bound by the final results of an appeal to the Commonwealth Court. The incentive to "lawyer up" for the unemployment compensation hearing will increase, as will the cost and the time associated with

the hearing. Employers will need to seriously consider the consequences of the preclusive effect of court decisions.

There is also a strong argument that the *Mathis* decision can be limited to its very narrow facts. *Mathis* involves a factual finding of a resignation without a necessitous and compelling reason. In the more typical unemployment compensation case, the burden is on the employer to prove "willful misconduct," a standard that is far different from intentional discrimination that there is not likely to be an identity of the issues for collateral estoppel to even apply.

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