

FILED

October 17, 2024

STATE OF MINNESOTA
COURT OF APPEALS

**OFFICE OF
APPELLATE COURTS**

CASE TITLE:

STATEMENT OF THE CASE

TEKsystems, Inc.

Petitioner

COURT OF APPEALS #:

vs.

Minnesota Department of Human Rights

Respondent

OFFICE OF ADMINISTRATIVE HEARINGS:
OAH 82-1700-39590

DATE OF DECISION: September 30, 2024

1. Agency of case origination.

Office of Administrative Hearings – Judge Barbara J. Case.
Minnesota Department of Human Rights – Commissioner Rebecca Lucero by and
through Eric Senske, Associate General Counsel.

2. Jurisdictional statement.

This is an appeal of a final decision in a contested case hearing by the Minnesota Department of Human Rights dated September 30, 2024, and received October 1, 2024, and this Court has jurisdiction pursuant to Minn. Stat. §§ 14.63-.69 (2022) and Minn. R. Civ. App. P. 115. This appeal is timely pursuant to Minn. Stat. § 14.63 because it is within 30 days.

3. State type of litigation and designate any statutes at issue.

This matter is based on the Minnesota Department of Human Rights (“MDHR”) denial of a TEKsystems, Inc.’s (“TEKsystems”) Workforce Certificate Application. The statutes at issue include Minn. Stat. § 363A.01 *et seq*, including, but not limited to, Minn. Stat. § 363A.03, subds. 1 and 15, Minn. Stat. § 363A.36 and Minn. Stat. § 363A.37, and all related rules.

4. Brief description of claims, defenses, issues litigated, and result below. For criminal cases, specify whether conviction was for a misdemeanor, gross misdemeanor, or felony offense.

MDHR improperly denied TEKsystems’ Workforce Certificate when TEKsystems would not provide MDHR with unfettered access to information about the regulation of TEKsystems employees who work out of its Hanover, Maryland location. It is undisputed that these employees do not work in Minnesota, reside in Minnesota, nor are they involved in contracts with Minnesota public entities.

In effect, MDHR wants to disregard the plain language in Minn. Stat. § 363A.03, subds. 1 and 15, creating exclusive definitions for application of the entire chapter of the Minnesota

Human Rights Act (“MHRA”), including Minn. Stat. §§ 363A.36 and .37, and define employees to not just include persons either residing or working in Minnesota, but to include employees neither working in nor residing in Minnesota, and monitor and regulate their protected class characteristics, such as race.

This defies the plain language of the statutory and exclusive definition of who an employee is. The Minnesota Supreme Court has been clear that when a term is statutorily defined as exclusive, that definition controls. Period. E.g., *State v. Fugalli*, 967 N.W.2d 74, 77 (Minn. 2021)(finding that “[t]he legislature defines a term only because it intends in some measure to depart from the ordinary sense of that term.”); accord, *Burgess v. U.S.*, 553 U.S. 124, 130 (2008)(citing *Colautti v. Franklin*, 439 U.S. 379, 392-93 n. 10 (1979) and reaffirming that when a definition says it “means” a particular thing, then that definition excludes all other definitions).

Defying the statutory definition in Minn. Stat. § 363A.03, subd. 15 has other unlawful consequences. It leads to the extraterritorial application of the MHRA to Maryland residents, something that is antithetical to Minnesota jurisprudence and also a violation of the dormant Commerce Clause in the Federal Constitution.

Instead of violating the exclusive statutory definition of employee in the MHRA, violating the prohibition on extraterritoriality in applying the MHRA to Maryland employees, and violating the dormant Commerce Clause, the Court should apply the plain language of the applicable statutes (Minn. Stat. § 363A.03, subds. 1 and 15, Minn. Stat. § 363A.36, Minn. Stat. § 363A.37, and the related rules) and order MDHR to issue a Workforce Certificate when an organization complies with all of the promulgated rules, which TEKsystems did. MDHR’s denial of the TEKsystems’ Workforce Certificate goes against the plain language of the MHRA, violates the dormant commerce clause, and is the enforcement of unpromulgated rules. MDHR and TEKsystems brought cross motions for summary disposition.

Judge Barbara Case from the Office of Administrative Hearings, improperly denied TEKsystems’ Motion for Summary Disposition and erroneously granted MDHR’s Motion for Summary Disposition. The Minnesota Department of Human Rights improperly affirmed Judge Case. This appeal follows.

5. List specific issues proposed to be raised on appeal.
 1. Whether the denial of TEKsystem’s Motion for Summary Disposition, and the granting of MDHR’s Motion for Summary Disposition, is in violation of the Constitution.
 2. Whether the denial of TEKsystem’s Motion for Summary Disposition, and the granting of MDHR’s Motion for Summary Disposition, is in excess of the statutory authority or jurisdiction of MDHR.
 3. Whether the denial of TEKsystem’s Motion for Summary Disposition, and the granting of MDHR’s Motion for Summary Disposition, is affected by other error of law.

4. Whether the denial of TEKsystem's Motion for Summary Disposition, and the granting of MDHR's Motion for Summary Disposition, is unsupported by substantial evidence in view of the entire record as submitted.

5. Whether the denial of TEKsystem's Motion for Summary Disposition, and the granting of MDHR's Motion for Summary Disposition, is arbitrary or capricious.

6. Whether TEKsystems is entitled to attorney's fees and costs because MDHR improperly denied its Motion for Summary Disposition.

These issues further flesh out into the following sub-issue: whether MDHR's denial of TEKsystem's Workforce Certificate is in defiance to the plain language of Minnesota statute, violates the establish canons of statutory construction, is impermissible extraterritorial reach of a Minnesota entity, violates the dormant commerce clause, and is unpromulgated rulemaking. All of these issues were raised before Judge Case, raised and argued before Commissioner Rebecca Lucero and her Associate General Counsel, Eric Senske, and decided against TEKsystems.

6. Related appeals. List all prior or pending appeals arising from the same action as this appeal. If none, so state. List any known pending appeals in separate actions raising similar issues to this appeal. If none are known, so state.

None.

7. Contents of record.

Is a transcript necessary to review the issues on appeal? Yes (X) No ()

If yes, full (X) or partial () transcript?

Has the transcript already been delivered to the parties and filed with the district court administrator? Yes () No (X)

If not, has it been ordered from the court reporter? Yes (X) No ()

If a transcript is unavailable, is a statement of the proceedings under Rule 110.03 necessary? Yes () No () N/A

In lieu of the record as defined in Rule 110.01, have the parties agreed to prepare a statement of the record pursuant to Rule 110.04? Yes () No (X)

8. Is oral argument requested? Yes (X) No ()

If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? Yes () No (X)

If yes, state where argument is requested:

9. Identify the type of brief to be filed.

Formal brief under Rule 128.02. (X)

Informal brief under Rule 128.01, subd. 1 (must be accompanied by motion to accept unless submitted by claimant for reemployment benefits). ()

Trial memoranda, supplemented by a short letter argument, under Rule 128.01, subd. 2. ()

10. Names, addresses, and telephone numbers of attorney for appellant and respondent

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Respectfully submitted,

Signature: *s/Kurt J. Erickson*

Dated: October 17, 2024

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