

Summary of SC89370, *Gilbert L. Alderson, et al. v. State of Missouri, et al., County Employees' Retirement Fund, et al.*

Appeal from the Cole County circuit court, Judge Richard G. Callahan.

Attorneys: The juvenile office employees were represented by Theodore R. Allen Jr., attorney for the Jefferson County juvenile officer, of Hillsboro; and the retirement fund was represented by Edward F. Downey and Carole L. Iles of Bryan Cave LLP in Jefferson City.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Employees of a county juvenile office, who report to the circuit court rather than the county, challenged the denial of their eligibility for a county retirement fund. In a unanimous opinion written by Judge Mary R. Russell, the Supreme Court of Missouri affirmed the judgment, holding that the provisions of the statutes establishing the county fund do not violate the constitutional right to equal protection, are not unconstitutional special laws and do not infringe on the constitution's separation of powers.

Facts: In 1994, the legislature created the County Employees' Retirement Fund (CERF) to provide retirement benefits for employees of Missouri counties other than first-class charter counties and St. Louis city. Under section 50.1000(8), RSMo, eligibility originally was open to "any county elective or appointive officer or employee whose position requires the actual performance of duties during not less than one thousand hours per year." Four years later, the statute was amended to limit the definition of eligible employees to "any county elective or appointive officer or employee who is hired and fired by the county and whose work and responsibilities are directed and controlled by the county." In 2001, the statute was amended to add eligibility for individuals hired "by the circuit court" in a first-class county without a charter form of government "which is not participating in LAGERS [the Missouri Local Government Employees Retirement System]." Employees in the juvenile office of Jefferson County – a first-class county without a charter form of government – filed suit after being told they were not eligible for benefits under CERF. They were told they were not "county employees" because they were subject to hiring, supervision and termination by either the circuit court or the chief juvenile officer rather than by the county. After cross-motions for summary judgment, the trial court entered judgment against the employees, who appeal.

AFFIRMED.

Court en banc holds: (1) The classification of employees eligible for CERF benefits does not violate the constitutional right to equal protection. The employees do not complain that the challenged laws infringe on a fundamental right. There are a number of

legitimate and rational reasons why the legislature might have chosen to extend eligibility only to those employees not covered by LAGERS, and this fact alone requires this Court to uphold the law. The right to control an employee often indicates a more direct employer-employee relationship as compared to a situation where the employee is paid by a central body but does not answer to it. Further, it is rational to carve out eligibility for a class of employees who otherwise might be left with no retirement fund whatsoever. The laws here have conceivably legitimate rationales; there is no indication that the exclusion of the juvenile office employees here is a case of legislative oversight or inaction.

(2) The CERF provisions are not unconstitutional special laws. The classification of employees covered by the CERF provisions is open-ended because their eligibility for CERF turns on their relationship to their employer; employees come and go from the eligible class as they are hired and fired. Further, there is a reasonable basis for classifying these employees based on their being hired, fired, directed and controlled by the county for which they work.

(3) The CERF provisions do not infringe on the constitution's separation of powers. The juvenile office employees provide no evidence that CERF ineligibility has or will make it more difficult for the judiciary to hire employees or that this amounts to "shackling" the judiciary's hiring ability. The lack of supporting evidence may be due, in part, to the fact that the juvenile office employees here and others similarly situated already qualify for other retirement funds, have been aware of their CERF ineligibility for more than a decade and yet have continued their employment and have failed to challenge the constitutional validity of their ineligibility until now.