MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MISSOURI CORRECTIONS OFFICERS ASSOCIATION, INC., ET AL., RESPONDENTS,

v.

MISSOURI OFFICE OF ADMINISTRATION, ET AL., APPELLANTS.

DOCKET NUMBER WD84917

DATE: December 6, 2022

Appeal From:

Cole County Circuit Court
The Honorable Jon Edward Beetem, Judge

Appellate Judges:

Division Four: Gary D. Witt, Chief Judge, Presiding, Mark D. Pfeiffer, Judge and Thomas N. Chapman, Judge

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Attorneys:

Maria Lanahan, St. Louis, MO, for appellants.

Loretta Haggard, St. Louis, MO, for respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

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MISSOURI CORRECTIONS OFFICERS ASSOCIATION, INC., ET AL., RESPONDENTS,
v.
MISSOURI OFFICE OF ADMINISTRATION, ET AL., APPELLANTS.

WD84917 Cole County

Before Division Four Judges: Gary D. Witt, Chief Judge, Presiding, Mark D. Pfeiffer, Judge, and Thomas N. Chapman, Judge

Missouri Office of Administration; and certain state officials in their official capacity (collectively, "OA") appeal the judgment of the Circuit Court of Cole County ("trial court"), following a bench trial, in favor of Missouri Corrections Officers Association, Inc., Terry Enberg, and Tina Courtway (collectively, "MOCOA") on MOCOA's amended petition against OA. The trial court issued its judgment ("Judgment") finding that the Emergency Rule and Final Rule (collectively, "Rules") issued by OA were unconstitutional because they infringed on MOCOA's constitutional rights to organize and to bargain collectively, freedoms of speech and association, and equal protection. The trial court also found that OA's decisions in December 2019 to suspend payroll deduction and in March 2020 to deny payroll deductions for MOCOA were unlawful, arbitrary, capricious, and unreasonable. The trial court ordered OA to resume payroll deductions for current Department of Corrections ("DOC") employees who were having MOCOA dues deducted from their pay prior to OA's December 9, 2019, decision to suspend payroll deduction, and the trial court ordered OA to accept new MOCOA payroll deduction applications signed by DOC employees in the future.

AFFIRMED.

Division Four holds:

1. The overall composition of MOCOA's members as state employees satisfies the regulatory requirement that an "employee association" be a group of state employees. Under the plain and ordinary meaning of 1 C.S.R. 10-3.010(6)(A)(3), a group of state employees does not require the group to be composed of *exclusively* state employees in order to be an employee association. Here, MOCOA was receiving dues from roughly 1,300 DOC state employee members at the time OA terminated payroll deduction. The twenty-five retirees who were admitted as auxiliary members were not full members of

MOCOA, could not vote for directors, paid a reduced fee directly to MOCOA, and used their auxiliary membership for social and insurance purposes. To say that auxiliary membership of a small group of non-state employees in a lower-tier of membership disqualifies the entire group from classification as an employee association would be an absurd result and contrary to the plain meaning of the regulation.

2. OA's decision to discontinue MOCOA's dues deduction was arbitrary and capricious. The record contains substantial evidence from which the trial court could find that OA arbitrarily inquired into MOCOA's auxiliary membership in order to justify its prior decision to disqualify MOCOA from payroll deduction. OA's proffered reasons for terminating payroll deduction were pretextual, and its interpretation of the regulation was a moving target. It is clear from the record that OA previously understood MOCOA to be an employee association and failed to consider this factor in its suspension of payroll deduction.

3. OA's promulgation of the Rules to exclude labor unions from the definition of "employee association" violated article I, section 29 of the Missouri constitution. OA's discriminatory treatment of certain employee associations interfered with the right of employees to organize in the form of a labor union for the purpose of bargaining collectively. The right to organize and to bargain collectively is explicit in the Missouri constitution; therefore, government action that interferes with that fundamental right is subject to strict judicial scrutiny. On this record, OA did not show that the Rules were narrowly tailored to further a compelling government interest.

4. The trial court did not err in issuing injunctive relief. Here, MOCOA was receiving $13,000 per month in dues revenue before payroll deduction was terminated in December 2019. The trial court found that following the termination of payroll deduction for DOC employees, MOCOA lost nearly all of its income. MOCOA was forced to reduce its staff from three employees to one employee who manages all the work previously done by three MOCOA staff members. The trial court also found that MOCOA lacks an adequate remedy at law.

Opinion by: Gary D. Witt, Judge December 6, 2022

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