

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

SCOTT FRANSK,

Appellant

v.

CURATORS OF THE UNIVERSITY OF MISSOURI, BLAKE DANUSER,
KEN HUTCHINSON, AND CINDY STRINE.

Respondents

DOCKET NUMBER WD69173

DATE: November 12, 2008

Appeal From:

Circuit Court of Boone County, MO
The Honorable Clifford Eugene Hamilton, Jr., Judge

Appellate Judges:

Division Four: Thomas H. Newton, C. J., Joseph M. Ellis and James Edward Welsh, JJ.

Attorneys:

George S. Smith, Columbia, MO

Counsel for Appellant,

Paul R. Maguffee, Columbia, MO

Counsel for Respondents

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

SCOTT FRANSK, Appellant,

v.

**CURATORS OF THE UNIVERSITY OF MISSOURI,
BLAKE DANUSER, KEN HUTCHINSON, AND CINDY
STRINE, Respondents**

WD69173

Boone County

Before Division Four Judges: Newton, C.J., Ellis and Welsh, JJ.

Scot Fransk appeals the circuit court's judgment dismissing his petition for declaratory relief and for damages under 42 U.S.C. § 1983 for alleged violations of due process. Fransk asserts that the Curators of the University of Missouri (University) summarily discharged him from his employment with the University on the first day after his probationary period ended. He contends that he was entitled to due process because he had a property interest in his employment and was entitled to all the rights and privileges granted other non-probationary employees, including the right to challenge the circumstances of his summary discharge through the grievance procedures employed by the University. He also contends that the circuit court erred in concluding that the University clearly intended that his employment not be continued beyond the probationary period because intent is not a "legally defensible ground for missing an employer-imposed deadline." Finally, Fransk asserts that, because the University initially entertained his grievance, the University is equitably estopped from denying his right to continue in the grievance process.

AFFIRMED.

Division Four holds:

(1) Under the terms of the University's policy manual, Fransk had no reasonable and legitimate expectations of continued employment with the University as he was told that his employment would not continue beyond the last day of his extended probationary period and that he should go home and not return to work. Because the University discharged Fransk at the end of his probationary period, Fransk was not entitled to challenge the circumstances of his summary discharge through the grievance procedures employed by the University. Moreover, Fransk did not have a constitutionally protected property interest in his employment and, therefore, was not entitled to due process as a probationary employee

(2) Regardless of whether the University intended that Fransk's employment not be continued beyond the probationary period, the actions taken by the University were sufficient to terminate Fransk's employment during his probationary period.

(3) Fransk did not plead equitable estoppel in his petition, and he never presented the issue for the circuit court to decide. The issue, therefore, was not preserved for our review.

Opinion by: James Edward Welsh, Judge

Date: November 12, 2008

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