

COURT OF APPEALS DECISION
DATED AND RELEASED JUNE 25, 1991
STATE OF WISCONSIN
IN COURT OF APPEALS
DISTRICT III

SANDRA A. ANDERSON,
Complainant-Petitioner-Appellant,

vs.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION and MORAINÉ PARK
TECHNICAL COLLEGE,
Respondents.

No. 90-2490
Decision Nos. 25747-D and 24474-G

APPEAL from a judgment of the circuit court for Brown county:
N. PATRICK CROOKS, Judge. Affirmed.

Before Cane, P.J., LaRocque and Moser, JJ.

PER CURIAM. Sandra Anderson appeals a judgment affirming two decisions of the Wisconsin Employment Relations Commission. The commission concluded that it lacked jurisdiction to reopen proceedings on Anderson's prohibited practices complaint against Moraine Park Technical College (MPTC) and the Federation of Teachers (union). In the second decision, the commission determined that Anderson's complaints against MPTC concerning her personnel file and against the union concerning her grievances were barred by the one-year statute of limitations contained in sec. 111.07(14), Stats. Because the commission correctly determined the limitations on its jurisdiction, we affirm the judgment.

Anderson was discharged by MPTC in November 1985. An arbitrator upheld the discharge in January 1987. Anderson then filed a prohibited practices complaint with the commission challenging her discharge and the arbitrator's decision. 1/ Anderson alleged that MPTC discharged her without cause and that the union failed to fairly represent her in the arbitration hearing. On the parties' stipulation, the commission dismissed Anderson's prohibited practices complaint with prejudice on September 21, 1987.

In April 1988, Anderson moved the commission to reopen the prohibited practices complaint on grounds that her attorney neglected to prepare adequately for the hearing and wrongly advised her to dismiss the complaint. One month later, she also moved the commission to set aside the arbitration decision and to grant her a new hearing based on the newly discovered evidence. In September and November 1988, Anderson filed two additional motions to reopen.

The commission properly denied all of the motions to reopen because it lacked jurisdiction.

Section 111.07(6), Stats., prevents the commission from reopening proceedings more than twenty days after it enters its decision. Wacho Mfg. v. Industrial Comm'n, 223 Wis. 312, 314-15, 270 N.W. 63, 65 (1936). The grounds for the motion to reopen are not relevant. The commission's jurisdictional limits apply even in cases of fraud or newly discovered evidence. See Wacker v. Industrial Comm'n, 248 Wis. 315, 319-20, 21 N.W.2d 715, 716 (1946); Amberg v. Deaton, 223 Wis. 653, 659, 271 N.W. 396, 398 (1937).

Relying upon Amberg, Anderson contends that this court may reverse the denial of her first motion to reopen because her stipulation to dismiss was obtained by concealment, misrepresentation and fraud. Amberg recognizes the court's power to suspend enforcement of a judgment upon a showing that the underlying administrative order was procured through willful perjury. It does not expand the commission's time for reopening a decision. The commission's jurisdiction is set by the legislature, and is not subject to expansion by the courts.

Anderson filed an additional prohibited practices complaint against MPTC and the union. Section 111.07(14), Stats., creates a one-year statute of limitations from the date of the specific act or unfair labor practice. Most of Anderson's complaint concerns events that occurred more than one year before the complaint was filed. The four wrongful acts that she alleges occurred within the limitation period do not independently constitute an unfair labor practice. Specifically, the union's failure to respond to a letter, MPTC's release of documents to a potential employer, its failure to remove certain documents from the personnel file, and its refusal to allow Anderson to view her file do not independently constitute illegal practices. Because Anderson relies on earlier alleged illegalities to create her claim that these acts were illegal, the statute of limitations bars this action. See Local No. 1424 v. NLRB, 362 U.S. 411, 416-17 (1960).

By the Court. Judgment affirmed.

This opinion will not be published. See Rule 809.23(1)(b)5, Stats.

Endnotes

1/ Anderson also filed an action in circuit court seeking to vacate the arbitration decision. The circuit court dismissed that action, and the court of appeals affirmed the dismissal.