

IN THE SUPREME COURT OF THE CHEROKEE NATION

HEATHER LOVETT,)
)
Appellant,)
)
v.)
)
CHEROKEE NATION BUSINESSES. LLC.)
)
Appellees.)

Case No. SC 2018-03

2018 APR -2 AM 9:37
CHEROKEE NATION
SUPREME COURT
KENDALL BRIDGECOURT CLEM
FILED

PETITION IN ERROR

- PETITION IN ERROR
- AMENDED OR SUPPLEMENTAL PETITION
- CROSS PETITION
- COUNTER-PETITION

DATE FIRST PETITION IN ERROR WAS FILED:

I. TRIAL COURT HISTORY

COURT/ COMMISSION: District Court

CASE NO.: CV 2017-272

JUDGE/ HEARING OFFICER: Judge Luke Bartreaux

NATURE OF CASE: Appeal from Cherokee Nation Business Employee Appeals Review Panel ("EARP") Case Number EARP 17-05

NAME OF PARTY(IES) FILING THIS PETITION IN ERROR: Heather Lovett

THE APPEAL IS BROUGHT FROM: (check one)

- Judgment, Decree or Final order of the District Court
- Appeal from order granting summary judgment or motion to dismiss
- Final Order of Other Tribunal, Commission, or Hearing Board
- Interlocutory Order Appealable by right
- Other

II. TIMELINESS OF APPEAL

1. Date judgment, decree, or order appealed was filed: March 2, 2018

2. Does the judgment or order on appeal dispose of *all* claims by and against *all* parties?
Yes No
3. Were any post-trial motions filed? No.
4. This Petition is filed by: Delivery to Clerk, or
Mailing to Clerk by U.S. Certified Mail,
Return Receipt Requested

III. RELATED OR PRIOR APPEALS

None.

IV. SETTLEMENT CONFERENCE

Is the appellant willing to participate in a Settlement Conference? Yes No

V. RECORD ON APPEAL

- A Transcript will be ordered
No Transcript will be ordered because no record was made and/or
no transcript will be necessary for this appeal
Narrative Statement will be filed
 Audio and video file of District Court proceeds are designated in record

VI. JUDGMENT, DECREE OR ORDER APPEALED-- EXHIBIT "A"
Attach as Exhibit "A" to the Petition in Error a certified copy of the judgment, of March 2, 2018

VII. SUMMARY OF CASE -- Exhibit "B"
Attach Exhibit "B" a brief summary of the case.

VIII. ISSUES TO BE RAISED ON APPEAL -- Exhibit "C"
Attach as Exhibit "C" the issues proposed to be raised.

IX. NAME OF COUNSEL OR PARTY, IF PRO SE

ATORNEY FOR APPELLANT
Name: Chad Smith
CBNA: 08
Firm: Chad Smith
Address: 22902 S 494 Road
City: Tahlequah
State: OK Zip: 74464
Phone: 918 453 1707
Email: chad@chadsmith.com

ATORNEY FOR APPELLEE

Name: Tim Baker, Tralynna Scott

CBNA:

Firm: Cherokee Nation Businesses LLC

Address: 777 W. Cherokee Street

City: Catoosa

State: OK Zip: 74015

Phone:

Email: Tim.baker@cn-bus.com

Tralynna.Scott@cn-bus.com

DATE: April 2, 2018

Verified by:


(Signature of Attorney of Pro Se Party)

CNBA: 08

Firm: Chad Smith

Address: 22902 S 494 Road

City: Tahlequah

State: OK Zip: 74464

Phone: 918 453 1707

Email: chad@chadsmith.com

X. CERTIFICATE OF MAILING TO ALL PARTIES AND COURT CLERK

I hereby certify that a true and correct copy of the Petition in Error, Amended or Supplemental Petition, Cross Petition, or Counter-Petition, was mailed this 2th day of April 2018 to the following:

Tralynna Scott
Tim Baker
Cherokee Nation Businesses, LLC.
777 West Cherokee Street
Catoosa, OK 74015
tralynna.scott@cn-bus.com
tim.baker@cn-bus.com

I further certify that a copy of the Petition in Error was mailed to, or filed in, the office of the Court Clerk of the Cherokee Nation Supreme Court on April 2, 2018.


Chad Smith

Exhibit “B” Statement of Case

1. On October 20, 2008, Lovett began her employment with CNB and was employed in a position for more than one year at the time of her termination.
2. On August 29, 2016 Lovett was placed on “Suspension Pending Pretermination Hearing” without any notice of the allegations and opportunity for hearing prior to being suspended.
3. On August 29, 2016, without notice, Lovett was “walked out” of her office escorted by a Security Officer at the request of Human Resources Employee Goodacre and Lovett was banned from coming back onto the Hard Rock Property in Catoosa, Oklahoma
4. On November 21, 2016, CNB terminated Lovett’s employment.
5. On February 24, 2017, during the Appellant’s hearing before the EARP, Hearing Officer Gray repeatedly, over the objection of Appellant, allowed hearsay statements of various CNB staff that Larry Annett (“Annett”) stated that Appellant sold him a prescription pain patch.
6. CNB did not offer a written statement by Annett.
7. CNB did not call Annett as a witness and he was not present for cross examination at Lovett’s EARP Hearing.
8. CNB did not offer a recorded statement by Annett.

Exhibit “C” Issues Raised on Appeal

1. The EARP erred by admitting into evidence, blatant hearsay evidence of *purported* out of Court statements offered for the truth of the matter asserted (that Lovett sold “prescription pain medicine to another employee”) without the establishment of any exception to the hearsay rule.
2. The EARP denied Appellant basic due process of law and fundamental fairness by taking away her constitutional property right of tenured employment without affording her the opportunity to confront and cross examine her accuser.
3. The EARP erred by sustaining CNB’s termination of Lovett’s employment because without the inadmissible hearsay testimony, CNB had no evidence that Lovett sold Annett a prescription pain patch.

