

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 21, 2022

1:13 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Liz Snyder, Vice Chair
Representative Harriet Drummond
Representative Jonathan Kreiss-Tomkins
Representative David Eastman

MEMBERS ABSENT

Representative Christopher Kurka
Representative Sarah Vance

COMMITTEE CALENDAR

PRESENTATION(S): BELLVILLE V. DUNLEAVY

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

RICHARD FRANKEL, Professor of Law
Thomas R. Kline School of Law
Drexel University
Philadelphia, Pennsylvania

POSITION STATEMENT: Presented on the Bellville v. Dunleavy lawsuit.

ACTION NARRATIVE

1:13:08 PM

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:13 p.m. Representatives Drummond and Claman were present at the call to order. Representatives Snyder, Kreiss-Tomkins, and Eastman arrived as the meeting was in progress.

PRESENTATION(S): Bellville v. Dunleavy

1:13:50 PM

CHAIR CLAMAN announced that the only order of business would be a presentation on the Bellville v. Dunleavy court case.

1:14:20 PM

RICHARD FRANKEL, Professor of Law, Thomas R. Kline School of Law, Drexel University, provided the background and context around the federal civil rights statute, Title 42 USC 1983, which formed the basis for the lawsuit Bellville v. Dunleavy 566 F. Supp 3d 969-2022. He stated that Section 1983, enacted in 1871, allows lawsuits against state officials - in both their official and individual capacity - when they violate someone's federal constitutional or statutory rights. The goal of the statute is to compensate victims and deter misconduct. The U.S. Supreme Court and the lower federal courts developed a doctrine around the rights of public employees not to be dismissed or face adverse-employment actions on account of their speech or political views. He pointed out that Section 1983 allows plaintiffs to seek injunctive relief and damages relief. He stated that one of the two immunities common to damages claims is in the Eleventh Amendment, which provides under Section 1983 that state officials sued in their individual capacity may still be protected under the qualified immunity doctrine. He advised that this has become controversial in recent years, unless the actions violated clearly established law. He addressed several unique aspects of the case, such as the summary judgment, where Judge John W. Sedwick held that, as a condition of keeping their jobs, it was a violation of the First Amendment to require nonpolicy-making employees to signal commitment to a supervisor's political views.

1:28:15 PM

MR. FRANKEL, in response to questions from the committee, surmised that in this case the plaintiffs could have sought both damages and injunctive relief. He explained that, under the Eleventh Amendment, the state was immune from damages relief unless sovereign immunity was waived, but it was not immune from injunctive relief. He stated that the plaintiffs could seek damages separately for compensation from state employees, as long as the state employees were not entitled to qualified immunity. However, the First Amendment political patronage doctrine would not apply to policy making officials in the same

way. He cited that in Bakalar v. Dunleavy 580 F. Supp 3d 677-2022, the court ruled that the governor should receive qualified immunity for the decision to fire Ms. Bakalar, an attorney, because clear case law had not been established. In contrast to this case, the two plaintiffs in Bellville v. Dunleavy were clinicians who were not enacting government policy. He stated that, overall, Section 1983 claims against governors are common compared to other types of defendants. He discussed the work done by his legal clinic and the strategies used to determine whether to bring a claim.

[1:57:12 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:57 p.m.