

IN THE SUPREME COURT OF TEXAS

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No. 97-0894
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COLLINGSWORTH GENERAL HOSPITAL AND TEXAS EMPLOYMENT COMMISSION,
PETITIONERS

v.

FREDONIA HUNNICUTT, RESPONDENT

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ON PETITION FOR REVIEW FROM THE COURT OF
APPEALS FOR THE SEVENTH DISTRICT OF TEXAS
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Argued on April 28, 1998

JUSTICE SPECTOR filed a dissenting opinion, in which JUSTICE GONZALEZ joined.

Fredonia Hunnicutt committed a crime of passion. Provoked by a number of calls from her husband's paramour, Hunnicutt confronted the woman and assaulted her. These events occurred while Hunnicutt was off-duty from her job as a housekeeper at Collingsworth General Hospital. Although Hunnicutt had been employed at the hospital for twenty-five years without incident, Collingsworth fired her because of the assault. Hunnicutt did not meet or contact the woman at the hospital, and she did not obtain the weapon used in the assault at work. The assault bore no relationship whatsoever with Hunnicutt's job performance. Nevertheless, the Court holds that Hunnicutt is not entitled to benefits under the Unemployment Compensation Act, TEX. LAB. CODE §§ 201.001-217.017. __ S.W.2d __. Because the Court's construction is contrary to the Act's plain language, I respectfully dissent.

Under the Act, "An individual is disqualified for benefits if the individual was discharged

for misconduct *connected with the individual's last work.*" TEX. LAB. CODE § 207.044(a) (emphasis added). Without enunciating any clear test for determining whether misconduct is "connected with" an employee's work, the Court concludes that Hunnicutt was properly denied benefits because her off-duty conduct "is so inimical to the very purpose and function of the Hospital that it would have adversely impacted the Hospital's interests to continue [Hunnicutt's] employment." ___ S.W.2d at ___ .

The Court errs by upholding the denial of unemployment benefits to Hunnicutt for misconduct that had no factual nexus with her job. The Court's decision effectively gives no effect to the statutory requirement that misconduct must be "connected with" an employee's work in order for the Commission to deny benefits. It thus violates the fundamental principle that requires courts to give effect to every word or clause of a statute. *See Laidlaw Waste Systems (Dallas), Inc. v. City of Wilmer*, 904 S.W.2d 656, 659 (Tex. 1995) (citing *Cameron v. Terrell & Garrett, Inc.*, 618 S.W.2d 535 (Tex. 1981)). Whether the hospital was entitled to terminate at-will employee Hunnicutt is not the issue before the Court; the issue is her entitlement to unemployment benefits. I would affirm the judgment of the court of appeals.

Rose Spector
Justice

OPINION DELIVERED: June 25, 1998