

“THE NEW REALITY”

The Supreme Court of Washington State included the following sentence in their decision in Johnson v. Hawe -

“Government actors lack any personal privacy rights subsequent to the need to isolate their government actions from any undue influence related to personal preferences or other conflicting agendas.”

I call that citation “The New Reality” for government actors. To translate what it says into relevant terms that define that change in the status quo regarding accountability for official government acts – *THERE IS NO MORE BLANKET IMMUNITY FROM PERSONAL LIABILITY FOR OFFICIAL ACTIONS!!!*

In the above citation, the Supreme Court of Washington State declared the need for a new Supreme Court policy regarding “the need to isolate government actions from undue influence related to personal preferences or other conflicting agendas.” And then applies that new policy statement to the generalities of the instant case - “Government actors lack any personal rights...” And lastly, the policy and its defined general implications are applied directly to the limited issues before the court - personal privacy protection for government actors. But that final decision that is limited to the privacy issues currently before the Court in that appeal is entirely dependent on the two previous elements in the Courts logic. The updated policy is clearly defined and then just as clearly applied in both general terms and then applied directly to the specific circumstances.

It is the specific application of the generalities defined by the policy statement being stated first that makes the court decision read backwards from the direction of the logic. But the logic of the courts statement remains policy defined in general terms and then applied in the specific circumstances before the court. So the general terms clearly define that “government actors lack ANY personal rights” while engaged in government actions and that certainly includes the fact of *NO MORE PERSONAL DISCRETION OF ANY KIND*.

And then the court also expands upon “The New Reality” by indicating that the “government actor” who does allow “undue influence from personal preferences or other conflicting agendas” to affect their official actions is denied any immunity from personal liability for their official actions.

It is the past history of repeated abuses of personal discretion by government actors under the previous legislative standard of blanket immunity from personal liability for official actions that finally forced the Supreme Court to recognize that the now previous standard of blanket immunity created more problems of a much more serious nature than it attempted to eliminate. And the pendulum has swung all the way across the spectrum from total immunity to total liability if “undue influence related to personal preferences or other conflicting agendas” is detected in official government actions. In fact, under the new policy as defined by the Supreme Court, ANY official act that is contrary to established statutes, regulations, protocols or other such standards is immediately suspect as being the result of such undue influence!

The blanket immunity was originally passed by the State legislature for the purpose of protecting the members of the legislature themselves, but the self-interest motivation model was modified by including every other State government employee in the same protection. And every other State government employee enjoyed an extended sabbatical from personal liability for aberrant official government decisions. And relied on that immunity excessively to protect them from being sued in State courts for their illegal official government acts.

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NOT ANY MORE!!!! If a government actor allows undue influence to enter into their official acts, that government actor loses any rights to immunity for that unduly influenced official act. That new standard now reflects exactly how the Federal government addresses that same undue influence and other conflicts of interest or agendas.

Based on the Washington State Supreme Court decision limiting undue influence of personal preferences and conflicting agendas in official actions, the changes to the status quo previously discussed regarding personal liability for official actions are not the only legal ramifications or implications associated with the updated status quo.

Taking the exact wording from the Supreme Court decision, the first essential element of any review of official government actions is the existence of any undue influence of personal preferences or other conflicting agendas. Any official act that is contrary IN ANY WAY to existing standards of any kind – ethical, moral, legal, professional or otherwise – is now AUTOMATICALLY reviewed as being suspect of being the result of that same undue influence the Supreme Court has declared as no longer being allowed or protected, as it was previously under the legislative enacted blanket immunity for all government actors from personal immunity for any and all official actions.

To summarize the “New Reality”, the Supreme Court breaks it down into three rather simple rules:

1. Official government actions that are clearly contrary to existing standards are immediately suspect as being the result of undue influence from personal preferences or other conflicting agendas. In as few words as possible – contrary official actions equals conflicting agendas because no conflicting agendas equals no contrary official actions.
2. Undue influence being exercised on government actions equals loss of immunity from personal liability for official actions.
3. Personal immunity for official actions equals the need to acquire personal legal representation as the Attorney General cannot represent any State government employee who has allowed personal preferences or other conflicting agendas to have undue influence on their official government actions.

Under the “New Reality”, all of the above issues are decided AS A MATTER OF LAW, NOT OF FACT!!! All that is necessary to invoke the “personal preferences or other conflicting agendas” standard of review is to define an official action as being contrary to established standards of official conduct. Once that negative relationship has been defined and established, the situation then immediately escalates to the imposition of personal sanctions without any ability to defend official actions that are clearly outside of the law.

The “New Reality” now prescribes the absolute elimination of any and all personal preferences or other conflicting agendas from all official government actions. And whereas the previous status quo for official actions imposed by the Washington State legislature was a blanket immunity for all official actions, that standard has been declared void and invalid. And the pendulum has swung all the way across the spectrum to now demand complete personal liability for any and all official actions that are not supported by law.

Personal priorities and other personal preferences – such as “personal discretion” - and conflicting agendas are now OUTLAWED in official acts! That is the “New Reality” stated in as few impactful words as possible!!