NOT TO BE PUBLISHED IN OFFICIAL REPORTS

- C O P Y -

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

IN AND FOR THE THIRD APPELLATE DISTRICT

(Sacramento)

SHELLEY CHRISTOPHERSON, Plaintiff and Respondent, v. LINDA McMAHON, as Director, etc., Defendant and Appellant.	C004310 (Super.Ct.No. 338529)

Linda McMahon, as Director of the Department of Social Services (Department), appeals from a judgment granting Shelley Christopherson's petition for a writ of mandate and setting aside the Department's decision permitting Sacramento County (County) to recover $478 from Christopherson in overpayment in Aid to Families with Dependent Children (AFDC) benefits. The superior court found the Department's decision arbitrary and capricious by its refusal to find the County equitably estopped from collecting the overpayment. The only issue presented by this appeal is whether substantial evidence supports the trial court's implied finding that Christopherson suffered prejudice

warranting application of the doctrine of equitable estoppel.[1] We conclude that it does and shall affirm the judgment.

Christopherson is a recipient of AFDC benefits on behalf of herself and two children. A third child, John Acosta, received $226 in monthly Social Security benefits on his own behalf. Acosta left his mother's home on July 14, 1985.

The federal Deficit Reduction Act of 1984 changed existing law to require eligibility for AFDC benefits to take into account, with certain exceptions, the income of all parents, brothers, and sisters living in the same home. (42 U.S.C. 602(a)(38); see Bowen v. Gilliard (1987) 483 U.S. _____, _____ [97 L.Ed.2d 485, 493-494].) Implementing regulations called for this change to be effective February 1, 1985, which, under Sacramento County's budgeting method, would

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1/ Not at issue is whether the Department is forbidden as a matter of law from applying principles of equitable estoppel in cases involving recovery of AFDC overpayments. That issue is currently before the California Supreme Court in Lentz v. McMahon (Cal.App.) (review granted Feb. 26, 1987 (S.F. 25123)). Pending final disposition of Lentz, however, the Supreme Court has ordered the trial court's injunction in that case continued in effect. (Supreme Ct. mins., May 17, 1984 [in 1984 Advance Sheet Pamphlet No. 17].) That injunction requires the Department to apply principles of equitable estoppel, as may be warranted by law and the facts, in its administrative proceedings. (See Lentz v. McMahon, supra [reprinted at 197 Cal.App.3d 445, 450 to permit tracking pending disposition on review by the Supreme Court]; see also Canfield v. Prod (1977) 67 Cal.App.3d 722, 731-733.) The Department acknowledges that requirement.

affect benefits paid commencing April 1, 1985. Sacramento County postponed implementation until July 1985, however, and then determined overpayments retroactively.

In May 1985, Christopherson's eligibility worker verbally informed her of an upcoming change that would require the County, in determining the amount of her AFDC benefits, to consider Acosta's Social Security income. The worker told Christopherson that the change had not yet been implemented in Sacramento County. Christopherson was not informed that the change would be implemented retroactively and an overpayment declared.

On July 10, 1985, the County formally notified Christopherson of the changed eligibility requirements. The County applied the change retroactively and declared a $478 overpayment for the months April through July 1985. Effective August 1, 1985, Christopherson's AFDC benefits were to be adjusted by $29 per month until the overpayment was recovered.

Christopherson requested a fair hearing on the County's proposed action. (See Welf. & Inst. Code, § 10950.) She claimed the County should be equitably estopped from recovering the overpayment. At the hearing, Christopherson adduced the following uncontroverted evidence: In reliance on the amount of benefits that had been paid to her from April through July 1985, and in reliance on her eligibility worker's representations, Christopherson enrolled in school and incurred school-related expenses, including $46 per month for child care

in April and May, $150 per month for child care in June and July, $10 per month for books, $25 per month for clothing, $8 per month for gasoline, and $20 per month for parking. In addition, she laid away $300's worth of school clothing for her children, paying $50 down and regular payments every two weeks, and in July she purchased gifts and planned birthday celebrations for her children's August birthdays. These expenses were paid out of her AFDC benefits, and had she known the true facts about her eligibility, she would have chosen to forego or limit the expenses. A $29 reduction in her monthly AFDC benefits of $587 would work a hardship in that, after paying her monthly rent of $335, she would have an insufficient remainder to cover utility, food, and other necessary expenses without arranging installment payments and juggling bills -- a practice she found necessary even without the reduction. In the winter her gas bill alone is almost $100 per month, which she must pay in installments. Adding to the hardship, Acosta moved out of the home in July 1985, resulting in the loss to the family unit of his monthly $226 in Social Security benefits. Christopherson was "barely surviving as it is now."

The hearing officer's proposed decision was that the County be equitably estopped from recovering the overpayment until Christopherson's financial situation reasonably justified it. The hearing officer concluded: "With respect to the doctrine of equitable estoppel, it is clear under the evidence that the county may be charged with knowledge of the rules of

the welfare regulations and, therefore, with the relevant facts and that the county intended that [Christopherson] rely upon the advice and grant amount that was received. Additionally, it is clear that [Christopherson] was ignorant of the regulations as they applied in this case and of the fact that she was receiving an overpayment. Finally, it is concluded that [Christopherson] was injured as a result of this advice and receipt of aid because it resulted in an overpayment for which she is now liable, a debt which otherwise would not have been incurred, and because she expended the aid which was received to meet ongoing needs and other expenses based upon expectation of receipt of the full amount of the [Maximum Aid Payment]. Additionally, it is concluded that [Christopherson] is and will be subjected to additional hardship as long as she receives no other income other than the aid payment based upon the large portion of her income which must be used to pay for housing, the remaining income from the aid payment amount which must be used to meet all the needs of three individuals, and loss of the availability of the [Social Security] payment. Where the impact upon [Christopherson], as in this case, is not ameliorated by the presence of other income and/or resources, it is concluded that a $29 grant adjustment presents a serious impact upon [Christopherson] which would justify application of the doctrine of equitable estoppel despite the presence of a regulatory provision for adjustment of administrative error overpayments and that such justification would continue to

exist until there is an appropriate change of circumstances in the financial condition of [Christopherson] which would justify recoupment."

The Department declined to adopt the proposed decision. The Department agreed that Christopherson had established the first three elements of equitable estoppel, as found by the hearing officer. "However, the Department does not consider adjustment of the $478 overpayment to be an injury within the meaning of equitable estoppel." The County's action was sustained and Christopherson's claim denied.

Christopherson petitioned the superior court for review (see Welf. & Inst. Code, § 10962; Code Civ. Proc., § 1094.5), arguing that, contrary to the Department's conclusion, the evidence established prejudice as a result of her reliance on the County's conduct. The court issued a writ of mandate setting aside the Department's decision and ordering the Department to reconsider the matter, applying the doctrine of equitable estoppel. The Department's appeal followed.[2]

2/ Although it is ordinarily not our role to question a litigant's decision to appeal a superior court judgment, we cannot help but notice the trifling amount of public funds at stake here ($478) in conjunction with the nature of the issue on appeal (the sufficiency of the evidence to sustain a finding of fact). The cost to the public for the Department to advance this litigation beyond the trial court level exceeds $478 by multiples. (We include in that cost the expenditure of scarce judicial resources.) Because the issue is fact-specific, our resolution of it has no precedential value and no real impact beyond the parties directly involved in this litigation, and the Department's attempt to vindicate its position on appeal appears to us, on the cost/benefit scale, extremely shortsighted.

"Generally speaking, four elements must be present in order to apply the doctrine of equitable estoppel: (1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury. [Citations.] The existence of an estoppel is generally a question of fact for the trial court whose determination is conclusive on appeal unless the opposite conclusion is the only one that can be reasonably drawn from the evidence. [Citation.] When the evidence is not in conflict and is susceptible of only one reasonable inference, the existence of an estoppel is a question of law. [Citation.]" (Driscoll v. City of Los Angeles (1967) 67 Cal.2d 297, 305-306.)

The only dispute in this case revolves about the presence of the fourth element of equitable estoppel -- prejudicial reliance.[3] It presents a question of fact. (See

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3/ The Department argued in the superior court, and does so again on appeal, that the presence of the third element -- Christopherson's ignorance of the true state of facts -- is open to question. This is so, the Department says, because Christopherson was informed as early as May 10, 1985, that she had received AFDC overpayments. The Department's position in this regard must be rejected, for several reasons. First, it misstates the facts. The uncontroverted evidence is that on May 10, 1985, Christopherson's eligibility worker informed her

(Continued on p. 8.)

Lovett v. Point Loma Development Corp. (1968) 266 Cal.App.2d 70, 76.)

Initially, we iterate the scope of our review. Because the record is silent on the point, we presume the superior court applied the independent judgment test in its review of the Department's decision. (See Frink v. Prod (1982) 31 Cal.3d 166, 174-180 [independent judgment test applies to decisions affecting qualification for public assistance].) "Thus, the superior court weighs the evidence and makes its own determination whether the administrative findings are sustained. And, where the superior court overturns such findings and an appeal is taken, the reviewing court gives the superior court's judgment the same effect as if it were rendered in any ordinary trial in that court. In other words, on appeal, the question is not whether the administrative determination was supported by the weight of the evidence, but

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3/ (Continued from p. 7.)

of an upcoming change in Christopherson's eligibility. The eligibility worker did not inform Christopherson that she had been and was being overpaid, nor was Christopherson informed that, when implemented, the change would be applied retroactively and an overpayment declared. Second, the Department's decision denying Christopherson's claim expressly found that Christopherson was ignorant of the true state of facts: "[I]t is clear that [Christopherson] was ignorant of the regulations as they applied in this case and of the fact that she was receiving an overpayment." Finally, Christopherson's petition in the superior court alleged that the Department had found "all elements of equitable estoppel were met except that of 'injury.'" The Department's answer to the petition admitted this allegation. The Department's turnabout on this point is not well taken.

whether, disregarding all contrary evidence, there is substantial evidence in support of the trial court's findings." (Emphasis in original, 8 Witkin, Cal. Procedure (3d ed. 1985) Extraordinary Writs, § 254, p. 879.)[4] "'The rule as to our province is: "In reviewing the evidence . . . all conflicts must be resolved in favor of the respondent, and all legitimate and reasonable inferences indulged in to uphold the verdict if possible. It is an elementary . . . principle of law, that when a verdict is attacked as being unsupported, the power of the appellate court begins and ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted, which will support the conclusion reached by the jury. When two or more inferences can be reasonably deduced from the facts, the reviewing court is without power to substitute its deductions for those of the trial court." (Italics added.) (Crawford v. Southern Pacific Co. (1935), 3 Cal.2d 427, 429 . . . .) The rule quoted is as applicable in reviewing the findings of a judge as it is when considering a jury's verdict. . . . Appellate courts, therefore, if there be any reasonable doubt as to the sufficiency of the evidence to sustain a finding, should

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4/ By reproducing verbatim as its appellate brief the points and authorities submitted in the superior court, the Department displays a gross misunderstanding of the scope of our review on this appeal. It also displays a halfhearted approach to the appeal, as well as a lack of interest in assisting this court to perform its function, neither of which is well received.

resolve that doubt in favor of the finding.' [Citations.]" (Emphasis in original, Moran v. Board of Medical Examiners (1948) 32 Cal.2d 301, 308-309.) The testimony of a single witness, even the party herself, may be sufficient to sustain a finding. (In re Marriage of Mix (1975) 14 Cal.3d 604, 614.)

The record in this case does not contain any express finding, either written or oral, of prejudicial reliance. The only expression of the superior court that is contained in the record is its judgment, which sets aside the Department's decision and orders the Department "to apply the doctrine of equitable estoppel to this case." The judgment recites that the "administrative proceeding was the result of arbitrary and capricious action on the part of [the Department] in that [it] refused to apply the doctrine of equitable estoppel toward the overpayment in the administrative case of Shelley Christopherson." There is no question in this case that the Department "applied" the doctrine of equitable estoppel. The issue tendered by the pleadings and by the arguments presented to the superior court was whether the Department applied the doctrine correctly, viz., whether the weight of the evidence supported a finding that Christopherson relied on the County's conduct to her prejudice. Accordingly, we read into the superior court's judgment a finding that Christopherson was so prejudiced. Our task, then, is to determine whether that finding is supported by substantial evidence.

We have fully recited the evidence earlier in this

opinion, and there is no need to repeat it here. Suffice it to say that, considered in the light most favorable to Christopherson, the evidence supports a finding of prejudicial reliance. Unaware that she was being overpaid, and assuming that she was entitled to the full amount the County was disbursing to her each month, and informed by her eligibility worker that her entitlement would change in the future, Christopherson made discretionary expenditures that exhausted the overpaid funds. Had she known the true facts, those expenditures would have been foregone or limited. As it was, however, Christopherson no longer had the overpaid funds to pay back to the County, and her financial situation was such that the $29 per month adjustment sought by the County would cause a hardship. "In order to constitute an estoppel, the condition brought about by the conduct of the party to be estopped must be such that the other party will be injured or placed in a worse position if the first party is allowed to pursue another course or assert the fact to be contrary to his first statement, . . ." (Stein v. Leeman (1911) 161 Cal. 502, 508.) By that standard, this uncontroverted evidence is sufficient to support the judgment. (Cf. Maples v. Workers' Comp. Appeals Bd. (1980) 111 Cal.App.3d 827, 836-837 [the disruptive effect to an employee of allowing credit to the employer for a temporary disability overpayment against the employee's permanent disability indemnity is sufficient prejudice to support an estoppel]; Advance Medical Diagnostic Laboratories

v. County of Los Angeles (1976) 58 Cal.App.3d 263, 274 [the "patent injustice and hardship" that would result if party were forced to return funds disbursed for services rendered is sufficient prejudice to support an estoppel].)

The Department suggests that Christopherson's going to school must be considered a benefit, not a detriment warranting application of equitable estoppel. If Christopherson has the resources to continue her education to its conclusion, no doubt she would realize some benefit from it. What the Department's argument ignores, however, are the immediate costs, both in money and opportunity, that accompany attending a school of higher education. The benefit, if any is to be realized, comes years later.

The Department argues further that Christopherson's voluntary choice to incur discretionary expenses cannot be laid at the Department's feet. The Department says that the County's decision to delay implementation of the changed eligibility requirements cannot be said to have caused Christopherson to incur those expenses and that there is no evidence of what Christopherson would have done differently had she known the true facts. To the contrary, Christopherson said she would have foregone or limited those expenses had she known she was being overpaid. And although the County's conduct did not "cause" Christopherson to make these choices, it certainly facilitated them, and it has already been established that those choices were uninformed.

The Department suggests that Christopherson benefitted from the overpayment because "she was receiving monetary benefits to which she was not entitled." This totally misses the point. Christopherson exhausted those funds in reliance on the County's conduct leading her to believe she was entitled to them. Had she known differently, she would have returned the funds or saved them. The prejudice comes from the fact that those funds are no longer available to Christopherson to pay back to the County without causing an immediate financial hardship to her.

The Department argues that California law requires it to recover overpayments, even if caused by agency error. The Department misstates the law. Welfare and Institutions Code section 11004, subdivision (c), provides: "Current and future grants payable to an assistance unit may be reduced because of prior overpayments to an extent consistent with federal law." (Emphasis added.) Rather than requiring recovery of overpayments, state law simply permits it. In this regard, the Department must observe Welfare and Institutions Code section 11000: "The provisions of law relating to a public assistance program shall be fairly and equitably construed to effect the stated objects and purposes of the program." (Emphasis added.) Welfare and Institutions Code section 10000 provides that the purpose of public social services "is to provide for the protection, care, and assistance to the people of the state in need thereof, and to promote the welfare and happiness of

all of the people of the state by providing appropriate aid and services to all of its needy and distressed. It is the legislative intent that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life, . . . and that aid shall be so administered and services so provided, to the extent not in conflict with federal law, as to encourage self-respect, self-reliance, and the desire to be a good citizen, useful to society." It is in this context, then, that the Department must consider whether to seek recovery of an overpayment caused by its own error, and application of the principles of equitable estoppel are clearly contemplated.

The Department argues that Christopherson has suffered no hardship because, effective August 1, 1985, and even factoring in the $29 adjustment, her monthly benefits actually increased by $3. The argument overlooks the reason for the increase in benefits -- a cost of living adjustment. Thus, the effect of the adjustment to recover the overpayment was to wipe out the cost of living increase to which Christopherson was otherwise entitled. Moreover, the argument does not negate Christopherson's evidence that, even with the $3 increase, she could not make ends meet.

Finally, the Department contends that "What [Christopherson] is truly complaining about is the change in the computation of her welfare grant, mandated by the federal Deficit Reduction Act of 1984." (Emphasis in original.) The

Department then cites Bowen v. Gilliard, supra, 483 U.S. ____ [97 L.Ed.2d 485], which rejected constitutional attacks on the legislation as it affects AFDC recipients. The Department completely mischaracterizes Christopherson's position in this litigation. She has not challenged the reduction mandated by the Deficit Reduction Act; rather, her complaint is with the manner in which the County implemented the act.

We conclude that substantial evidence supports the superior court's finding that Christopherson relied on the County's conduct to her prejudice, thus warranting application of the doctrine of equitable estoppel to the County's attempt to recover the AFDC overpayment.

The judgment is affirmed.

EVANS, J.

We concur:

PUGLIA, P.J.

DAVIS, J.