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SECRETARY OF THE OFFICE OF POLICY & MANAGEMENT v.
EMPLOYEES' REVIEW BOARD—CONCURRENCE

ZARELLA, J., concurring. I concur in the result reached by the majority but disagree with the majority's analysis. Following the approach to statutory interpretation adopted in *State v. Courchesne*, 262 Conn. 537, 577, 816 A.2d 562 (2003), the majority begins by examining the statutes and case law of other jurisdictions to determine the meaning of the terms "day" and "legal holiday" contained in General Statutes §§ 5-250 (c) and 5-254 (a), respectively. The majority then seeks to divine the legislative purpose underlying the statutory language by examining the related statutory scheme and legislative history. I would adopt a simpler approach.

As I have stated elsewhere, if the language of a statute is plain and unambiguous, as in the present case, we need look no farther for its meaning than the words of the statute itself, unless such an interpretation produces an absurd result. *Id.*, 634 (*Zarella, J.*, dissenting). Only when the meaning of statutory language cannot be determined in this fashion should we consider the statutory scheme, the common-law principles governing the same subject matter and the statute's legislative history. *Id.* (*Zarella, J.*, dissenting). I therefore disagree with the majority's conclusion that §§ 5-250 (c) and 5-254 (a) should be construed similarly because the language and legislative history of the two provisions "reflect an interrelated purpose of providing time for the observance of certain holidays, including religious holidays." I also disagree with the majority's emphasis on the subjective intent of the legislature in addition to the pertinent statutory language.

I initially disagree that personal and holiday leave under §§ 5-250 (c) and 5-254 (a) should be interpreted similarly on the ground that both provisions "reflect an interrelated purpose of providing time for the observance of certain holidays, including religious holidays." General Statutes § 5-250 (c) expressly provides that personal leave "shall be for the purpose of conducting private affairs, including [but not limited to the] observance of religious holidays" General Statutes § 5-254 (a) provides "time off with pay for any legal holiday" without referring to the religious or secular character of the holiday. Accordingly, because the language of each statute is different, I would conduct a separate analysis of each provision under the applicable canons of statutory construction.

General Statutes § 5-254 (a) provides in relevant part: "Each full-time permanent employee in the state service shall be granted time off with pay for any legal holiday. . . ." As the majority correctly notes, there are no provisions in the State Personnel Act¹ that define the term "legal holiday." The majority observes, therefore, that,

in the absence of a statutory definition, we must construe the words and phrases of a statute according to their common usage. See General Statutes § 1-1 (a). The majority nevertheless proceeds directly to the statutes and case law of other jurisdictions in construing the meaning of the term.

I find such an analysis superfluous because the term “legal holiday” is generally understood to mean a full calendar day. In other words, a reasonable person simply would not interpret the statute to mean that state employees working a nonstandard ten hour day must report for two hours of work on Thanksgiving, Independence Day or any other day designated as a legal holiday if the employee’s nonstandard workday happens to fall on the holiday. Indeed, such an interpretation would produce absurd results. Because most state offices are closed on legal holidays, employees reporting to work on a legal holiday might not be able to perform their usual duties, much less enter the building, in the absence of other employees. Accordingly, a construction of the term “legal holiday” to mean a full calendar day is both reasonable and consistent with the term’s common usage.

General Statutes § 5-250 (c) provides in relevant part: “In addition to annual vacation, each appointing authority shall grant to each full-time permanent employee in the state service three days of personal leave of absence with pay in each calendar year. Personal leave of absence shall be for the purpose of conducting private affairs, including observance of religious holidays, and shall not be deducted from vacation or sick leave credits. . . .” Neither the statute nor the State Personnel Act contains a definition of the term “day” for purposes of calculating personal leave.

The majority observes that neither party has argued that this court’s construction of the term “day” in § 5-250 (c) and the term “holiday” in § 5-254 (a) should differ on the basis of any purported distinction between a “day” of personal leave and a “holiday.” Furthermore, it is a well settled canon of statutory construction that “the legislature is always presumed to have created a harmonious and consistent body of law [T]his tenet of statutory construction . . . requires us to read statutes together when they relate to the same subject matter Accordingly, [i]n determining the meaning of a statute . . . we look not only at the provision at issue, but also to the broader statutory scheme to ensure the coherency of our construction. . . . In applying these principles, we are mindful that the legislature is presumed to have intended a just and rational result.” (Citations omitted; internal quotation marks omitted.) *Hatt v. Burlington Coat Factory*, 263 Conn. 279, 310–11, 819 A.2d 260 (2003).

Sections 5-250 (c) and 5-254 (a) are part of a single statutory scheme, namely, the State Personnel Act. In

order to achieve a harmonious result, the two statutes must be construed so that both personal leave days and paid legal holidays refer to calendar days rather than standard eight hour workdays. Such an interpretation is reasonable and there is nothing in either statutory provision to suggest that a distinction should be made between them on that basis. Such an interpretation also is consistent with other provisions in the statutory scheme. See General Statutes § 5-250 (a) (each full-time employee shall be granted “an annual vacation with pay of twenty-one consecutive calendar days or its equivalent”). I believe that this is a more logical and legally defensible approach than that which the majority takes in construing the two provisions in a similar manner.

Finally, General Statutes § 5-250 (c) expressly provides that personal leave days shall be “[i]n addition to annual vacation” and that personal leave “shall not be deducted from vacation or sick leave credits.” Consequently, under the plain language of the statute, hours taken for personal leave may not be deducted from an employee’s vacation account. I thus reach the same result as the majority but via a more direct path.

¹ General Statutes § 5-193 et seq.