Judicial Review of Administrative Findings of Fact: The Doctrine of Jurisdictional Facts of Florida

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NOTES

JUDICIAL REVIEW OF ADMINISTRATIVE FINDINGS OF FACT: THE DOCTRINE OF JURISDICTIONAL FACTS IN FLORIDA

Underlying many recent Florida cases of review of administrative decisions is the concept of jurisdictional facts. An implied constitutional prohibition of the delegation of legislative powers requires that a limited jurisdiction, a controlled discretion, be granted to the administrative agencies employed to make a law effective in varying factual situations. In the creating statute particular requirements must be set out to control the actions of the agency; these requirements are jurisdictional, and compliance therewith is a condition precedent to a valid exercise of the granted authority. The doctrine of jurisdictional facts has been implemented by the due process requirement that the allegations of statutory or constitutional authority underlying the particular order or the particular rule be based on findings or conclusions of fact that are in turn supported by the evidentiary facts in the record to at least a substantial degree. In many Florida cases there is a tendency to homogenize these concepts in the term "jurisdictional facts." 2

I. THE OCCUPATIONAL BOARDS

The present concept of jurisdictional facts has resulted from a merger of the principles governing review of executive suspension of officers with the principles governing quasi-judicial determinations of the Railroad Commission. The importance of this blending of concepts can best be shown by tracing the development of these principles in Florida law.

In 1892 the Court held that the Senate was the only power that could judge the propriety of the suspension of an officer under the constitutional grant of power to the Governor. In so far as the judiciary was concerned, he was the exclusive judge of the sufficiency of the proof of the charge, but the Court could inquire to determine whether the grounds

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3The scope of this note is an examination of the origin and extent of the doctrine of "jurisdictional facts" in Florida. For the common-law history of the doctrine see Dickinson, Crowell v. Benson, Judicial Review of Administrative Determinations of Questions of "Constitutional Fact," 80 U. of Pa. L. Rev. 1055 (1932).
alleged in support of the suspension were among those set forth in the Constitution. In 1931 the right to continue in office was recognized as falling within the protection of the Fourteenth Amendment to the Constitution of the United States, but at the same time the office-holder was regarded as subject to suspension for the causes enumerated in Article 4, Section 15, of the Florida Constitution as long as the Governor took the required measures to acquire jurisdiction. Further, there is no constitutional right to notice, to a hearing of the charges, or to a trial as in a court of justice as far as the action of the Governor is concerned; the trial is adequately furnished by the Senate. In 1932, in Bryan v. Landis ex rel. Reeve, this principle of law as to the exercise of power by the executive was applied to the exercise of power by the City Commission of Miami in removing an officer after the notice, charges, and hearing required by statute. In this case the Court held that it would examine the jurisdictional facts relied upon as a basis for the exercise of the power. In other words: Did the Commission track the statute?

In the other line of cases the special consideration accorded the Railroad Commission by the Florida Constitution and by statute should be kept in mind. The Commission is expressly permitted judicial powers by Article V, Section 35, and by statute "all presumptions shall be in favor of every action of the Commissioners." This presumption alone will not sustain an order; there must be substantial evidence to support the findings of fact as a basis for issuing an order. If the order is "without a legally sufficient evidentiary basis," it is invalid. In State ex rel. Williams v. Whitman an order of revocation of license by the Florida State Board of Dental Examiners was reviewed, and the Court, relying in part upon Florida Motor Lines, Inc. v. Railroad Commissioners, allowed relief. Quasi-legislative and quasi-executive functions were distinguished. In these latter the courts will not review for mere errors of

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8State ex rel. Lamar v. Johnson, 30 Fla. 433, 11 So. 845 (1892).
9State ex rel. Hatton v. Joughin, 103 Fla. 877, 138 So. 392 (1931).
10FLA. CONST. Art. IV, §15.
11FLA. STAT. §350.12 (m) (1941).
14116 Fla. 196, 156 So. 705 (1934).
15100 Fla. 538, 129 So. 876 (1930).
procedure or erroneous conclusions of fact when the record in its entirety does not show an "abuse of the delegated authority, or arbitrary or unreasonable action." In quasi-judicial proceedings, however, relief will be granted when the decision is improvident, erroneous, or unjustified, provided it divests or impairs some vested legal right.

The decision emphasizes that, consistently with the Fourteenth Amendment, a statutory tribunal such as the Board of Dental Examiners may be permitted to make a final determination of license revocation for legal causes if the Legislature so desires, but that if the testimony "entirely fails to support charges that alone constitute legal ground for revocation or deprivation of vested legal rights" relief may be obtained by mandamus. Actually the question was one of law rather than of fact; had the law been as the Board held, the admitted facts were sufficient. In so far as review of the facts was concerned, the classifications made were unnecessary.

In 1942, in *Nelson v. Lindsey*,\(^1\) which arose by mandamus against a Miami board on behalf of a demoted policeman, reliance upon the *Whitman* case was predicated upon headnotes stating the classification made. The Court held that the action was essentially "administrative or quasi-judicial," and that Article VIII, Section 8, of the Florida Constitution, delegating powers to municipalities, "does not contemplate arbitrary municipal authority or action." The two headnotes were intermingled in such a way as to produce the decision that the Court must determine whether there had been "a legal and reasonable exercise of administrative judgment predicated upon required procedure and appropriate evidence as shown by the record as made" or whether there had been "an abuse of delegated authority or arbitrary or unreasonable action." Then, upon review of the evidence it held that the order "is not justified."

Thus, by 1942, when a Miami Civil Service Board's demotion of an officer was reviewed in *Hammond v. Curry*,\(^2\) there were two lines of cases: *Bryan v. Landis*,\(^3\) interpreting the acts in the light of executive power, and *Nelson v. Lindsey*,\(^4\) in the light of quasi-judicial, somewhat diffused with quasi-executive and quasi-legislative powers. The majority opinion by Justice Thomas chose the principle from the quasi-judicial line of cases and held that tracking the statute and stating jurisdictional

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\(^1\)51 Fla. 596, 10 So.2d 131 (1942).
\(^2\)153 Fla. 245, 14 So.2d 390 (1943).
\(^3\)106 Fla. 19, 142 So. 650 (1932).
\(^4\)151 Fla. 596, 10 So.2d 131 (1942).
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does not. Without substantial evidence there is "an abuse of delegated authority or arbitrary or unreasonable action." The dissent by Chief Justice Buford, Justices Brown and Sebring concurring, said that there was no conflict between the Nelson case and the Bryan case, since both held that "... 'jurisdictional facts' must be shown and not that allegations of 'jurisdictional cause' only are required." The courts may determine whether there is "an utter failure to prove the alleged conduct which would establish the required jurisdictional facts." Particularly important is his designation of exactly what he means by jurisdictional facts.

"Jurisdictional facts are not established until a charge of misconduct sufficient to constitute jurisdictional cause is made and the charge so made is proved by some substantial evidence or admitted to be true." He then added that because the majority weighed the evidence he dissented.

Particular emphasis must be given to this decision, inasmuch as later cases indicate that there was no divergence in law, but rather in the interpretation of the facts. In State ex rel. Hawkins v. McCall, a case involving a police officer in Jacksonville, the Court by Justice Buford held, in reversing the order, that jurisdictional facts were neither alleged nor shown by evidence. In this Chief Justice Thomas and Justices Terrell and Chapman concurred. These were three of the majority in Hammond v. Curry. In Becker v. Merrill, however, the opinion written by Justice Thomas, who wrote the majority opinion in Hammond v. Curry, retains the same terminology there used, while the opinion on rehearing, written by Justice Brown, who dissented in Hammond v. Curry, uses the same language. From this it appears that it depends on the writer of the opinion which terms shall be applied, although the results are the same.

This development of jurisdictional facts is important in these cases, for the laws creating the civil service boards provided that their decisions of fact should be final. Accepting this, the Court evolved a rule for review that permitted examination of jurisdictional facts—procedural due process. Surprisingly enough, when the validity of this provision was raised in Becker v. Merrill, the Court answered it by the Fifth

158 Fla. 655, 29 So.2d 739 (1947).
155 Fla. 379, 20 So.2d 912 (1945).
Becker v. Merrill, 155 Fla. 379, 20 So.2d 912 (1945); Hammond v. Curry, 153 Fla. 245, 14 So.2d 390 (1943); Nelson v. Lindsey, 151 Fla. 596, 10 So.2d 131 (1942).
155 Fla. 379, 20 So.2d 912 (1945).
Amendment to the United States Constitution and by Section 12 of the Declaration of Rights of the Florida Constitution. At all events, the Court has refused to sanction the express creation of spheres of activity for administrative boards beyond the reach of the judiciary, upon whose functioning the citizen relies to insure proper treatment.

II. THE INDUSTRIAL COMMISSION

The Industrial Commission, created by the Workmen's Compensation Act, has been the board most involved in litigation. For the purposes of Florida law, when it is fulfilling its duties of adjusting compensation it is merely an administrative agent for the purpose of taking testimony whenever an appeal is taken from its findings. Since an application of the maxim expressio unius est exclusio alterius, its findings are given "about the same weight and consideration which the chancellor should properly give to the findings of law and fact by a special master appointed by the court for that purpose." But, if those same findings are affirmed by the circuit court, they have the same weight as the chancellor's findings in other cases. The circuit court must consider the case on the record and does so even to the consideration of service of process. Some indication has been given that the findings should carry weight by a holding that "the rule is well established that their award will be upheld if there is substantial testimony before them." A later case, however, severely limited the effect of this decision by giving no weight at all to the findings of the Commission on conflicting testimony, thus aborting the attempt to elevate the Commission's standing in court.

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20The Court must have meant the Fourteenth Amendment; the due process clause of the Fifth Amendment applies only to the Federal Government. Chapin v. Fye, 179 U. S. 127 (1900).
21FLA. STAT. §440.44 (1941).
22Conversely, its orders are binding judgments when the time for appeal has passed.
24Id. at 286, 192 So. at 866.
26Ibid.
29Star Fruit Co. v. Canady, 32 So.2d 2 (Fla. 1947).
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The wisdom of treating the Industrial Commission as an unhappy stepchild of the courts is not here in question, nor is the validity of the statutory interpretation that made it so; the Legislature has lent its acceptance to the interpretation by its silence on this part of the act following these decisions.\(^8\)

III. QUASI-LEGISLATIVE ACTION

Here the question is not ordinarily one of jurisdiction but rather of an abuse of authority. An interesting treatment of the problem of review is found in *McRae v. Robbins*.\(^9\) A price-fixing order was held subject to review by injunction, since it was alleged to be unreasonable and confiscatory to the plaintiff. The concurring opinion of Justice Whitfield held that in the absence of a record of the evidence and findings the order was without legal effect, because it violated due process in procedure and was unsupported by evidence. This suggests that such orders are subject to attack on the basis of procedure, reasonableness, and the sufficiency of the evidence. The complaining party may allege a non-compliance with the statute or an arbitrary or unreasonable order as the basis for review.\(^10\) But Justice Whitfield stated that for review there must be a record of the evidence and findings.\(^11\) Did he mean that there could not be a later presentation of any pertinent evidence to the Court, irrespective of whether it was before the board at the time of its findings? On the question of substantive due process—the reasonableness of an order promulgated by proper procedure—such evidence outside the record should not be permitted as long as procedurally the complainant could have presented it for the record.\(^12\) The majority opinion, however, by permitting an original action in equity, allowed this extra-record evidence in all aspects, both procedural and substantive. The dissent took the view that this was error, and that the complainant should have been limited to certiorari for a review of the existing record.

\(^8\) *Cf.* 1 U. of Fla. L. Rev. 465 (1948).

\(^9\) 151 Fla. 109, 9 So.2d 284 (1942).

\(^10\) *State ex rel. West Flagler Amusement Co. v. Rose*, 122 Fla. 227, 165 So. 60 (1935).

\(^11\) There is some confusion of the concepts involved in this quasi-legislative order with those involved in quasi-judicial proceedings. Justice Whitfield apparently desired that this type of action be taken under many of the same precautions as those in a court of record.

\(^12\) *See In re Grubb*, 116 Fla. 387, 156 So. 482 (1934).
The Court has not always been so divided. There has been a free use of the writ of mandamus to review quasi-legislative orders. The order is deemed prima facie reasonable and justified unless the facts as shown require a conclusion to the contrary. Upon a petition for an alternative writ the board may answer and present evidence to sustain its order, and the relator may present any pertinent evidence to prove that the statute has not been followed or that the order is unreasonable.

IV. THE RAILROAD COMMISSION

The Railroad Commission occupies a secure position by virtue of a presumption in favor of its jurisdiction and of the reasonableness of its orders; in fact, "all presumptions shall be in favor of every action of the commissioners." This presumption alone will not sustain an order, however, because there must be substantial evidence to support the findings of fact as a basis for issuing the order. In spite of the presumption and some slight amount of evidence, the order may be invalid as unreasonable or without "a legally sufficient evidentiary basis.

The denial or issuance of a certificate of public convenience and necessity after a public hearing involves a quasi-judicial function. Public convenience and necessity must be affirmatively established by substantial evidence and duly found by the Commission therefrom; otherwise the Commission is without authority to issue or deny the certificate. Unless the entire proceedings are in the record, a writ of review will be denied unless the Commission's order is illegal on its face, even though the writ sought be mandamus. In treating with the Railroad Commission, then, even though it has been given every organic and statutory aid to the finality of its findings, the Court has consistently fol-

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39 State ex rel. West Flagler Amusement Co. v. Rose, 122 Fla. 227, 165 So. 60 (1935).
41 Fla. Stat. §350.12(m) (1941).
42 Florida Motor Lines, Inc. v. Railroad Comm'rs, 100 Fla. 538, 129 So. 876 (1930).
45 Florida Motor Lines, Inc. v. Railroad Comm'rs, 100 Fla. 538, 129 So. 876 (1930).
47 In re Grubb, 116 Fla. 387, 156 So. 482 (1934).
lowed the rules for review of the decisions of lower courts, perhaps because of the “judicial powers” authorized for the Railroad Commission by the Constitution.\(^{45}\)

V. **SUBSTANTIAL EVIDENCE**

The review of findings of fact in all these cases, with the exception of the Industrial Commission, consists of an evaluation of the evidence in the light of the controlling law; if there is substantial evidence as a basis for the findings, the Court will refrain from weighing the evidence or comparing it with the evidence offered in refutation.\(^{46}\) Substantial evidence is “evidence which supports a substantial basis of fact from which the fact in issue can be reasonably inferred. It must do more than create a suspicion of the fact to be established, and must be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion.”\(^{47}\) Its effect upon review was stated in *Nelson v. State* ex rel. *Quigg*:\(^{48}\)

“We have held, and it seems to be the almost universal rule that the findings of fact made by an administrative board, bureau, or commission in compliance with law, will not be disturbed on appeal if such findings are sustained by substantial evidence. . . . This rule finds its counterpart in, if indeed it is not the twin brother of, the rule which requires an appellate court to give great weight to the findings of fact made by a jury or chancellor and to sustain such findings unless there is no substantial evidence to support them.”

VI. **CONCLUSION**

The jurisdictional authority of the administrative agency will, of course, be checked. The courts will examine the evidence adduced to support a rule or order of such agency. If the evidence is not substantial, relief will be granted; but if it is substantial it will not be re-weighed on

\(^{45}\) *Fla. Const.* Art. V, § 35.


\(^{47}\) *Becker v. Merrill*, 155 *Fla.* 379, 20 So.2d 912 (1944) and cases cited; *Laney v. Board of Public Instruction*, 153 *Fla.* 728, 15 So.2d 748 (1943).

\(^{48}\) 156 *Fla.* 189, 23 So.2d 136 (1934).