

THERESA NANGLE OBERMEYER

VS. UNIVERSITY OF ALASKA

FILED NO. A 81-448 10/28/81

U.S. DISTRICT COURT, DISTRICT OF ALASKA,
ANCHORAGE



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BEFORE UNIVERSITY OF ALASKA

BOARD OF GRIEVANCES

THERESA NANGLE OBERMEYER,)
)
Grievant,)
)
vs.)
)
UNIVERSITY OF Alaska,)
)
Respondent.)
)
)

APPEARANCES:

ROBERT B. FLINT, Hearing Officer
WOHLFORTH & FLINT, ATTORNEYS
THOMAS S. OBERMEYER, Representing Grievant

THERESA NANGLE OBERMEYER, Grievant

FLOYD V. SMITH, Attorney representing the Responder

TIME: 9:00 a.m.

PLACE: Executive Lounge, lower level, Student Center,
University of Alaska, Anchorage, Alaska

DATE: September 24, 1979.

P R O C E E D I N G S

1
2 MR. FLINT: This is the time and place set for
3 a hearing in the grievance of Theresa Nangle Obermeyer against
4 the University of Alaska. I have been appointed Hearing Officer
5 by the Board of Grievances of the University pursuant to their
6 rules. Notice was sent out for this hearing on September 11th
7 for, well, 9:00 o'clock, actually at the upper level conference
8 room, but apparently all the parties have gotten the switch and
9 so we are at the lower level conference room.

10 The Grievant is present and the University is represent-
11 ed by Mr. Floyd Smith. On Saturday morning I was served with
12 a copy of a letter to the -- Doctor J. Barton in Fairbanks, among
13 other things, requesting a continuance of this hearing today,
14 basically on two grounds: one, that the notice did not comply
15 with University rules because it was not at least 20 days prior
16 to this hearing and, secondly, because the Grievant basically
17 wanted time to hire an attorney.

18 Although it was not addressed to the Board of Grievances
19 or to me, I will consider the motion to continue the hearing.
20 I will note that the statement that the notice does not comply
21 with University rules is correct, since it was mailed on the 11th
22 for a hearing on the 24th. I will also note for the record that
23 the statement in the letter was that the Hearing Officer had
24 arbitrarily set the hearing without abiding by the rules of
25 practice and procedure. This hearing was urged upon the Hearing

1 Officer at an early date by both parties and by the Board of
2 Grievances. And in setting the time, I contacted by telephone
3 both Mr. Smith and Doctor Obermeyer to see if the 24th was
4 acceptable. Both of them told me that it was acceptable, and
5 that is why it was set. Therefore, the term arbitrary contained
6 in the letter is -- is not in any way correct. The point, how-
7 ever, that it is not 20 days is correct.

8 Mr. Smith, do you have any position on motion for
9 continuance?

10 MR. SMITH: We will not oppose it at this time.
11 The only point we would make is that I will be leaving the
12 Country October the 1st and I will not be back until October
13 the 25th

14 MR. FLINT: Uh-huh.

15 MR. SMITH: which I believe is a Thursday.
16 I'm not sure of that.

17 DR. OBERMEYER: Of October?

18 MR. SMITH: October 25th.

19 MR. FLINT: Very well. I will grant the motion
20 for continuance, and at this point we'll then hear from the
21 parties as to their suggestion for the best hearing date.

22 DR. OBERMEYER: At this point may the Grievant
23 make a couple of comments?

24 MR. FLINT: I'm going to do this in an orderly
25 manner, so right now on the motion for continuance, I want to

1 set a date for the time for continuance. So I will hear from
2 you on a time and a date.

3 DR. OBERMEYER: Sir, I would like to state
4 that you are -- have been unilaterally appointed, therefore, I
5 do not accept that -- you as the hearing officer, therefore, I
6 cannot comply with your wishes that we set another date.

7 MR. FLINT: Very -- very well. Mr. Smith, do
8 you have a time?

9 MR. SMITH: Sometime after October the 25th.
10 I would like to have it hopefully in November because if I get
11 back on October the 25th, I'd like to have at least a couple of
12 days to talk with my witnesses and to get set up again.

13 DR. OBERMEYER: Why are your witnesses not here
14 this morning, Mr. Smith?

15 MR. FLINT: Just -- Just a minute. I'm hearing
16 Mr. Smith right now. It makes no difference to me, the week
17 of October 29th or the week of November 5th.

18 MR. SMITH: October 29th will be adequate.

19 MR. FLINT: Does that give you enough time?
20 The 25th is on a Thursday and the 29th is on a Monday.

21 MR. SMITH: That will give me sufficient time.

22 MR. FLINT: Okay.

23 DR. OBERMEYER: May I make a comment, sir?

24 MR. FLINT: If you will make a comment now on
25 the time for the hearing. Otherwise, I want to take these

1 matters in order.

2 DR. OBERMEYER: Sir, under these circumstances
3 I will not comply with a continuance, because if you are going
4 to be the Hearing Officer and Mr. Smith is going to be the
5 attorney for the University, I will not accept a continuance.
6 Under these circumstances. I wish to go forward with this sham
7 of my legal rights.

8 MR. FLINT: Do you have any comment on that,
9 Mr. Smith?

10 MR. SMITH: Yes. On Saturday I received a
11 letter from -- served upon me by Miss Obermeyer demanding a
12 continuance. We have not opposed a continuance. I was under
13 the impression that she was going to seek a continuance today.

14 MR. OBERMEYER: Can I give an explanation? I --
15 I think

16 MR. FLINT: I'm sorry, you'll have to state
17 your name for the record.

18 MR. OBERMEYER: I'm Thomas S. Obermeyer, represent
19 ing my wife Theresa, Doctor Theresa Nangle Obermeyer.

20 MR. FLINT: Now, wait Mr. Obermeyer. Are you
21 an attorney?

22 MR. OBERMEYER: No, I'm not.

23 MR. FLINT: Okay, I think the proper procedure
24 here -- I will hear your comments

25 MR. OBERMEYER: All right.

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MR. FLINT: but the -- Just a minute.
The proper procedure here is that the Grievant, I think, will represent herself or will be represented by an attorney. I know of no method of practice whereby a -- a layman represents another layman.

DR. OBERMEYER: Sir, I disagree.

MR. FLINT: Just bear that in mind

DR. OBERMEYER: For the record, I disagree with your commentary.

MR. FLINT: (Indiscernible)

MR. OBERMEYER: I can have any representative I choose.

MR. FLINT: Doctor Obermeyer, one of the problems with this matter, as -- as I perceive it, was -- and I hope you perceive it, too, was that you needed legal counsel. It is my hope, and I'm sure the hope of the Board of Grievances and the University, that in the intervening time whatever you may do that you do indeed seek legal counsel and assistance on this matter. And I think it would be a great deal easier on everyone. Now, would you want to have a comment?

MR. OBERMEYER: Yes, I do have a comment. The reason for the continuance, in quotes, as requested last weekend, and not mentioned in your introductory remarks, was that we had discussed with Doctor J. Barton, the President of this University, and he agreed verbally that we would have a jointly appointed

1 and approved hearing officer. And we have tried to reach him
2 and have been unable to do so the last couple of days, when we
3 were told that this hearing was to come up. The reason that we
4 are asking for the continuance is so that we can follow the --
5 the legal appropriate method of hearing this problem. As -- as
6 Doctor Obermeyer explained, this is not a fair hearing. We are
7 not represented. We were not given 20 days. We are not in a
8 position where Doctor Barton's wishes are being complied with,
9 that we will have a choice and input into the hearing officer.
10 We obviously have had no time to subpoena people, call witnesses.
11 And I think it can be mentioned on the record, too, that -- that
12 this kind of an arrangement

13 DR. OBERMEYER: Sham.

14 MR. OBERMEYER: has

15 DR. OBERMEYER: Absolute

16 MR. OBERMEYER: has

17 DR. OBERMEYER: unequivocal sham.

18 MR. OBERMEYER: has been documented

19 MR. FLINT: Mr. Obermeyer, there isn't any need
20 to argue the motion for continuance because it has been granted
21 and I will set

22 DR. OBERMEYER: We do not comply with that, sir.

23 MR. FLINT: I will set

24 DR. OBERMEYER: Under the circumstances we do
25 not comply with a continuance. May I make a suggestion, Mr.

1 Flint?

2 MR. FLINT: Just a minute, Doctor Obermeyer.
3 I'm going to set the hearing, and notices will be sent out, for
4 October 29th at 9:00 o'clock to secure the appropriate room.

5 DR. OBERMEYER: Under these circumstances we
6 do not comply with the setting of a continuance. We wish to
7 have you make a decision on my hearing immediately, or if you
8 would like to hear the legal commentary we will be more than
9 happy to provide it to you, sir. And I would like to state a
10 couple of other comments. You and Mr. Smith are members of the
11 Bar of the State of Alaska. There will be a complaint filed
12 by the end of the week to the Bar Association concerning you and
13 Mr. Smith even being involved in this mockery (sic).

14 MR. FLINT: As far as further matters are con-
15 cerned, I think, to make this thing as orderly as possible, it
16 is important that all matters to the Hearing Officer or to the
17 Board of Grievances be put in writing. Therefore, I will not
18 have any or accept any phone conversations or have any oral
19 conversations regarding this matter other than relate to the
20 time and place of the hearing. All other matters

21 DR. OBERMEYER: Sir

22 MR. FLINT: all other matters will be
23 put in writing with copies served to the other parties. One
24 of the important things that I would like to point out is that
25 as far as I know, I have just in the file, filed before the

1 previous hearing officer, a prehearing memorandum regarding the
2 legal points from the University. It would be helpful to the
3 Grievance case if some form of prehearing memorandum regarding
4 the legal points were also filed. However, of course, that is
5 the Grievant's option, just as it is the Grievant's option
6 whether to represent herself or hire an attorney.

7 MR. OBERMEYER: Have we left the -- the time of
8 this hearing that you were

9 MR. FLINT: Nine o'clock.

10 MR. OBERMEYER: No, to

11 DR. OBERMEYER: I do not

12 MR. OBERMEYER: You just -- you were asking Mr.
13 Smith if -- if we could find an appropriate date for Mr. Smith.
14 Now you've not asked us if

15 DR. OBERMEYER: You haven't even asked us.

16 MR. OBERMEYER: there's an appropriate
17 date for us.

18 MR. FLINT: I'm sorry, I

19 DR. OBERMEYER: In the first place, I don't
20 accept you

21 MR. FLINT: I asked

22 MR. OBERMEYER: as the hearing officer.

23 MR. FLINT: I asked you first, and Doctor
24 Obermeyer responded by saying that she had no input on the date.
25 Now, if -- if you've changed your mind, I will be glad

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MR. OBERMEYER: All right.

MR. FLINT: to hear you.

DR. OBERMEYER: All right, I would like to make a few more comments. May I

MR. FLINT: No

DR. OBERMEYER: sir?

MR. FLINT: no. I want to

MR. OBERMEYER: Well, we'll talk about this one issue first.

MR. FLINT: The date.

MR. OBERMEYER: First of all, the date. I think we are going to have to contact an attorney

MR. FLINT: That's right.

MR. OBERMEYER: and -- before we can set a date. I don't see how we can set a date today.

DR. OBERMEYER: But I would like to also add that I

MR. FLINT: I would

DR. OBERMEYER: am not falling into yours or Mr. Smith's traps. You are extending the time because you know it is an extreme financial burden on my husband and myself, and you are collecting your hundred dollars an hour for this matter. I consider it ridiculous, and I refuse to comply with this joke any further. I would also like to state who is sitting here in this room today, and ask Mr. Smith why his witnesses are

1 not present. If he thought we were going forward today instead
2 of having a continuance, why are your witnesses not here, Mr.
3 Smith? May I ask that question, Mr. Flint?

4 MR. FLINT: One thing at a time. I am going
5 to set a hearing now. When you get an attorney he can call me
6 and Mr. Smith about changing the time and place of the hearing.

7 DR. OBERMEYER: We will not be contacting you,
8 we will be contacting the chain of command within the University
9 of Alaska, starting with the Board of Regents, Doctor Jay Barton,
10 Doctor Thomas ^{Gruenig} ~~Grunig~~ (ph) and on down into the whole maze of
11 bureaucratic administration within this institution.

12 MR. FLINT: If you want to have an input on
13 this date, you may have an input now. If you get an attorney
14 and it is not convenient for that attorney, then he can contact
15 me as Hearing Officer

16 DR. OBERMEYER: ^{He} will be

17 MR. FLINT: and we can

18 DR. OBERMEYER: contacting Doctor Jay
19 Barton or Mr. ^{Rasmussen} ~~Rasmussen~~.

20 MR. FLINT: You will get your turn, Doctor
21 Obermeyer. And he can contact me and that can be changed for
22 the convenience of the parties. Now, point number two, Mr.
23 Smith did not bring his witnesses because after I was served
24 with this -- the letter, which I take to be a motion, that you
25 wanted a continuance for the points stated therein, and I told

1 Mr. Smith that I was going to agree to that motion for continuance
2 at your request.

3 DR. OBERMEYER: Not under these circumstances.

4 MR. FLINT: At your request.

5 DR. OBERMEYER: Absolutely not. We do not

6 MR. FLINT: The way

7 DR. OBERMEYER: agree with continuing.

8 MR. OBERMEYER: I think it should be -- it
9 should be made

10 MR. FLINT: Mr. Smith (sic), I have not finish-
11 ed. I try to conduct these matters, in which I have been appoint-
12 ed Hearing Officer, as far as possible for the convenience of
13 the parties and the witnesses. If the Grievant wished a con-
14 tinuance that was not going to be opposed, it would be an un-
15 conscionable hardship to have Mr. Smith, or any other party, or
16 any witness, come here on the unlikely grounds that it would not
17 be granted. That is exactly the same reason why this hearing
18 time was set -- set after I phoned both parties to see if it
19 was a mutually agreeable time that this could be heard. Now, I
20 also generally, if possible, conduct these hearings in -- in a
21 manner by verbal stipulation or informal ways in which people
22 can be accommodated. If that can't be the case then they will
23 be conducted formally, and that's the way this will run from now
24 on. But still, for the convenience of the parties, for the
25 attorneys or whoever, if this hearing date that is going to be

1 set today needs to be changed, it can be changed. Now, do you
2 wish to have a comment on the date to be set now?

3 DR. OBERMEYER: We refuse to comply with you
4 as Hearing Officer

5 MR. FLINT: I've heard that

6 DR. OBERMEYER: so there's no commentary.

7 MR. FLINT: I've heard that, Doctor.

8 MR. OBERMEYER: All right, I will -- we will
9 make a comment regarding time. The time that we are meeting
10 today, 9:00 o'clock, Monday morning, September the

11 DR. OBERMEYER: Twenty-fourth.

12 MR. OBERMEYER: 24th, is -- has been a
13 time that was set by you, as far as ^{we} understand, last Friday
14 afternoon. And we were told over the telephone by you, sir, Mr.
15 Flint, that you would dismiss our case if we did not show up
16 this morning.

17 MR. FLINT: No, no. The hearing

18 MR. OBERMEYER: That is the reason we are here
19 today.

20 DR. OBERMEYER: That's exactly what you said.
21 to

22 MR. OBERMEYER: We had no intention

23 DR. OBERMEYER: me over the phone.

24 MR. OBERMEYER: We had no intention of this --
25 this hearing being held today because we had talked with the head

1 of this institution

2 MR. FLINT: Do you have a comment on the date
3 for the next hearing?

4 DR. OBERMEYER: I have a comment on this hearing,
5 sir.

6 MR. OBERMEYER: Just a minute.

7 MR. FLINT: No. All right. If you have no
8 comment on the hearing

9 DR. OBERMEYER: Just a moment, please.

10 MR. FLINT: it will be set for Monday,
11 October 29th, at 9:00 o'clock at a place that will be arranged.

12 DR. OBERMEYER: I would like to make a few
13 more comments if I may. First of all, I would like to ask you
14 and Mr. Smith, who obviously, gentlemen, are very good friends,
15 since what you're suggesting here is that Mr. Smith had an
16 opportunity to call all of his witnesses on Saturday evening.
17 Isn't that an interesting point that Mr. Smith was able to call
18 all these -- all of his friends

19 MR. FLINT: I'm not going to hear any

20 DR. OBERMEYER: who are witnesses

21 MR. FLINT: argument on -- on the
22 continuance of this hearing. That's been decided. Do

23 DR. OBERMEYER: It has not

24 MR. FLINT: you have any other

25 DR. OBERMEYER: been decided. We com --

1 We disagree completely.

2 MR. FLINT: Do you have any other motions or
3 comments that are

4 DR. OBERMEYER: I would like to ask you

5 MR. FLINT: relevant?

6 DR. OBERMEYER: if you would make a
7 decision this morning at 9:25 on my Grievance, considering the
8 sham that you are putting my husband and myself through.

9 MR. FLINT: Mr. Smith, do you have any further
10 matters?

11 MR. SMITH: I'm not going to comment unless
12 absolutely required to do so by the Hearing Officer on any
13 comments from Miss Obermeyer.

14 MR. FLINT: I'm only going to deal with procedural
15 matters now. I've granted the Grievant motion for continuance.
16 I've set a time. I think I've made it clear that that time, on
17 application of either party, can be changed. Notices will go
18 out immediately, however. And as -- I think I've briefly gone
19 over the procedure that I'm going to accept, and I -- to repeat
20 it, because I think it's extremely important. That I will accept
21 no phone calls or other oral conversation other than as to the
22 time and place of the hearing. Everything else must be in
23 writing served on the other party. If the parties desire a pre-
24 hearing conference in this matter, they can make an application
25 for it and I'll be glad to have one. Other than that, I don't

1 believe there's anything further to consider. I'm not going to
2 hear any arguments on the merits or any other accusations or
3 other problems other than procedure, so this

4 DR. OBERMEYER: Sir, these are not

5 MR. FLINT: is your last -- your last
6 chance if you have comments on

7 DR. OBERMEYER: I have a comment.

8 MR. FLINT: Fine.

9 DR. OBERMEYER: These are no accusations, sir.
10 These are legal principles that we are talking about. And you
11 and Mr. Smith, as members of the Alaska Bar, should -- and I
12 repeat should -- know them a lot better than I.

13 MR. FLINT: Very well. Concluded today. The
14 hearing is continued until October 29th at 9:00 a.m.

15 END OF PROCEEDINGS

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3000 Dartmouth Drive
Anchorage, Alaska 99504
September 12, 1979

Mr. Edward Cordova
Anchorage Community College
2533 Providence Drive
Anchorage, Alaska 99504

Dear Mr. Cordova:

This is to request that you please send to me a list of the specific reasons for my non-retention as a staff member at Anchorage Community College effective June 30, 1979. at your earliest convenience.

Thank you very much for your prompt attention to this matter.

Sincerely,

Theresa Nangle Obermeyer

Theresa Nangle Obermeyer

Shirley - Claims 043-1133
on 10/1/79

Phil & Family

PS Form 3800, Apr. 1976

TOTAL POSTAGE AND FEES POSTMARK ON DATE	CONSULT POSTMASTER FOR FEES		SENT TO EDWARD CORDOVA STREET AND NO. P.O. STATE AND ZIP CODE ANCHORAGE, AK 99504 POSTAGE CERTIFIED FEE \$ 6.00
	OPTIONAL SERVICES	RETURN RECEIPT SERVICE	
	SPECIAL DELIVERY RESTRICTED DELIVERY	SPECIAL DELIVERY RESTRICTED DELIVERY	
	SHOW TO WHOM AND DATE DELIVERED	SHOW TO WHOM AND DATE DELIVERED	
	SHOW TO WHOM AND DATE DELIVERED	SHOW TO WHOM AND DATE DELIVERED	

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)
P08 5332484

BOARD OF GRIEVANCES



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THERESA NANGLE OBERMEYER,)
)
 Grievant,)
)
 vs.)
)
 UNIVERSITY OF ALASKA,)
)
 Respondent.)

DECISION

The above-entitled matter came on for hearing on the 29th day of October, 1979 at 9:00 a.m., at the offices of WOHLFORTH & FLINT, 900 West Fifth Avenue, Suite 505, Anchorage, Alaska. Present was Floyd V. Smith representing the University of Alaska. The grievant was not present in person or by counsel.

Findings of Fact

I

The date and time of the hearing was verbally set for October 24, 1979 at 9:00 a.m. in the presence of the parties at the hearing of September 24, 1979.

II

Notice of the date, time and place of hearing was sent to the parties by mail on September 24, 1979.

III

The grievant received the notice, signed the envelope and returned it unopened to the hearing officer.

IV

An additional notice was sent to the grievant on October 19, 1979. This notice was forwarded by grievant unopened to Thomas B. Gruenig on October 20, 1979.

