STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1256

David Baldridge,
Relator,

vs.

Department of Employment
and Economic Development,
Respondent.

Filed May 5, 2014
Affirmed
Johnson, Judge

Department of Employment
and Economic Development
File No. 31048072-3

Richard A. Williams, Jr., R.A. Williams Law Firm, P.A., St. Paul, Minnesota (for relator)

Lee B. Nelson, Department of Employment and Economic Development, St. Paul, Minnesota (for respondent)

Considered and decided by Johnson, Presiding Judge; Rodenberg, Judge; and Crippen, Judge.*

*Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

JOHNSON, Judge

David Baldridge sought unemployment benefits from the department of employment and economic development, which determined that he is eligible but that his benefits must be reduced by an amount equal to 50 percent of his Social Security old-age benefits, as required by a state statute. On certiorari appeal, Baldridge argues that the department misapplied the statute, that the statute is preempted by federal law, and that the statute violates his constitutional rights. We affirm.

FACTS

The facts of this case are undisputed. Baldridge was employed by My-Pipeline Services, Inc., from April 15, 2006, until March 31, 2013, when he was laid off for lack of work. On March 24, 2013, Baldridge applied for unemployment benefits. On April 1, 2013, the department issued an initial determination stating that Baldridge is eligible for benefits but that, pursuant to statute, his weekly unemployment benefit would be reduced by 50 percent of his weekly Social Security old-age benefits. Baldridge's benefits were reduced because some of his wage credits in his base period were earned while he was collecting Social Security benefits.

Baldridge filed an administrative appeal. An unemployment law judge (ULJ) held a hearing and issued a written decision in which he concluded that the 50-percent deduction applies to Baldridge's application for the reasons stated in the initial determination. Baldridge requested reconsideration and, with the assistance of counsel,

made various legal arguments. The ULJ rejected Baldridge's arguments and affirmed the earlier decision. Baldridge appeals to this court by way of a writ of certiorari.

D E C I S I O N

I. Statutory Argument

Baldridge first argues that the ULJ erred in his application of the statute that governs deductions from unemployment benefits to account for Social Security old-age benefits. That statute provides, in relevant part:

> (a) Any applicant aged 62 or over is required to state when filing an application for unemployment benefits and when filing continued requests for unemployment benefits if the applicant is receiving, has filed for, or intends to file for, primary Social Security old age benefits for any week during the benefit year.
>
> Unless paragraph (b) applies, 50 percent of the weekly equivalent of the primary Social Security old age benefit the applicant has received, has filed for, or intends to file for, with respect to that week must be deducted from an applicant's weekly unemployment benefit amount.
>
> (b) If all of the applicant's wage credits were earned while the applicant was claiming Social Security old age benefits, there is no deduction from the applicant's weekly unemployment benefit amount. The purpose of this paragraph is to ensure that an applicant who is claiming Social Security benefits has demonstrated a desire and ability to work.

Minn. Stat. § 268.085, subds. 4(a)-(b) (2012). The ULJ reasoned that the 50-percent deduction applies to Baldridge's unemployment benefits because less than all of Baldridge's wage credits were earned while he was receiving Social Security benefits.

Baldridge argues that he is entitled to receive full benefits because he is actively seeking work, consistent with the second sentence of paragraph (b). In response, the department argues that the deduction is necessary because Baldridge does not satisfy the first sentence of paragraph (b). This court applies a *de novo* standard of review to matters of statutory interpretation. *Emerson v. School Bd. of Indep. Sch. Dist. 199*, 809 N.W.2d 679, 682 (Minn. 2012).

Baldridge applied for benefits on March 24, 2013, which means that his base period is January 1, 2012, to December 31, 2012. *See* Minn. Stat. § 268.035, subd. 4 (2012). Baldridge began receiving Social Security benefits in February 2012. But Baldridge's unemployment benefits depend in part on wage credits he earned during the month of January 2012, while he was not receiving Social Security old-age benefits. Given the plain language of the statute, Baldridge cannot take advantage of the exception in the first sentence of paragraph (b) because he did not earn all of his wage credits while he was receiving Social Security old-age benefits. Thus, the ULJ did not err by determining that Baldridge's unemployment benefits must be reduced by 50 percent of his Social Security benefits.

Baldridge tries to avoid this conclusion by contending that the second sentence of paragraph (b) "is a special provision that gives clear direction that the presumption created in the first sentence can be rebutted if there is clear evidence that the individual is still actively in the labor market." In essence, Baldridge contends that the second sentence of paragraph (b) creates another exception to the deduction provision of paragraph (a) such that an applicant should receive full benefits if he or she *either*

(1) earned all wage credits while claiming Social Security old age benefits *or* (2) has demonstrated a desire and ability to work.

The first sentence of paragraph (b) plainly states the sole criterion for determining whether a social-security deduction must be made. The second sentence is simply a statement of purpose. *See Hasledalen v. Department of Emp't & Econ. Dev.*, 811 N.W.2d 133, 135 (Minn. App. 2012). The second sentence provides, "The purpose of this paragraph is . . . ." Minn. Stat. § 268.085, subd. 4(b). We may consider a statement of purpose only if a statute is ambiguous or does not directly address the facts of a particular case. *See Scheibel v. Illinois Farmers Ins. Co.*, 615 N.W.2d 34, 38 (Minn. 2000). The operative language of paragraph (b), which is in the first sentence, is unambiguous, and it directly addresses the facts of this case. Thus, the statement of purpose in the second sentence does not augment the operative language of the first sentence so as to create another exception to the general rule.

Therefore, the ULJ did not err by applying the statute to require a deduction from Baldridge's benefits equal to 50 percent of his Social Security old-age benefits.

II. Preemption Argument

Baldridge also argues that the ULJ erred by rejecting his argument that section 268.085, subdivision 4(a), interferes with the federal Social Security statutory scheme such that it is preempted by federal law.

Under the Supremacy Clause of the United States Constitution, a federal law prevails over a conflicting state law. U.S. Const. art. VI, cl. 2; *Angell v. Angell*, 791 N.W.2d 530, 534 (Minn. 2010). "A state law conflicts with a federal law when it is

impossible for a private party to comply with both state and federal requirements or when the state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Angell*, 791 N.W.2d at 535 (quotation omitted). This court applies a *de novo* standard of review to the question whether federal law preempts state law. *Id.* at 534.

Baldridge does not explain how it is impossible for him to comply with both section 268.085, subdivision 4(a), of the Minnesota Statutes and with the requirements of the Social Security law, nor has he explained how the state statute is an obstacle to the purposes and objectives of the Social Security program. In fact, Social Security benefits and unemployment benefits are part of "an overall system of wage-loss protection, and offset provisions simply are a means of coordinating benefits." *See Sundby v. City of St. Peter*, 693 N.W.2d 206, 211 (Minn. 2005). Furthermore, it appears that the two laws are not in conflict. From 1976 to 1980, a federal statute *required* states to make a dollar-for-dollar deduction in unemployment benefits for the receipt of Social Security old-age benefits. *See* Unemployment Compensation Act, Pub. L. 94-566, § 314, 90 Stat. 2667, 2680 (1976) (codified at 26 U.S.C. § 3304(a)(15)). In 1980, Congress amended the federal statute to give states more flexibility in deducting federal retirement benefits. *See* Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, § 414, 94 Stat. 1208, 1310 (1980) (codified as amended at 26 U.S.C. § 3304(a)). But the 1980 amendment "did not prohibit the States from adhering to the original offset requirement or an offset requirement in excess of the minimum offset requirement." U.S. Dep't Labor, Unemployment Ins. Program Letter No. 22-87 (Apr. 30, 1988). The additional

flexibility is consistent with the fact that the Social Security Act typically has allowed states "great latitude in fashioning their own programs." *New York Tel. Co. v. New York State Dep't of Labor*, 440 U.S. 519, 542, 99 S. Ct. 1328, 1342 (1979). Thus, section 268.085, subdivision 4(a), does not impermissibly conflict with the federal Social Security statutory scheme.

Baldridge relies on *Nash v. Florida Indus. Comm'n*, 389 U.S. 235, 88 S. Ct. 362 (1967), a case in which a Florida statute provided that "[a]n individual shall be disqualified for [unemployment] benefits . . . [if] his total or partial unemployment is due to a labor dispute in active progress." *Id.* at 236-37, 88 S. Ct. at 365 (quotation omitted). The United States Supreme Court concluded that the state law conflicted with the federal National Labor Relations Act (NLRA) because it tended to discourage complaints of unfair labor practices, which is contrary to Congress's desire that "all persons with information about [unfair labor] practices . . . be completely free from coercion against reporting them to the Board." *Id.* at 238, 88 S. Ct. at 365. The present case obviously is different because the Social Security statutory scheme is different from the NLRA statutory scheme. The Social Security scheme is not at cross purposes with the state unemployment program, and Baldridge does not have a disincentive like that of the employee in *Nash*.

Baldridge also relies on *Huston v. Commissioner of Emp't & Econ. Dev.*, 672 N.W.2d 606 (Minn. App. 2003), *review granted* (Minn. Feb. 25, 2004), *appeal dismissed* (Minn. May 25, 2004), a case in which this court held that categorically denying unemployment benefits based on a person's receipt of Social Security disability benefits,

without an assessment of the applicant's actual ability and availability to work, conflicted with the federal Americans With Disabilities Act (ADA). *Id.* at 611 (citing Minn. Stat. § 268.085, subd. 4(c) (2002)). We noted in *Huston* that a statute that merely *reduced* a person's unemployment benefits based on receipt of Social Security disability benefits would not be invalid. *Id.* Because section 268.085, subdivision 4(a), merely reduces unemployment benefits, it does not suffer from the flaw that was present in *Huston*.

Therefore, the ULJ did not err by concluding that section 268.085, subdivision 4(a), does not interfere with the federal Social Security statutory scheme and, thus, is not preempted by federal law.

III. Constitutional Arguments

Baldridge also argues that the ULJ erred by rejecting his argument that section 268.085, subdivision 4(a), as applied, violates his constitutional rights to equal protection and due process. This court applies a *de novo* standard of review to the question whether a statute is constitutional. *Gluba ex rel. Gluba v. Bitzan & Ohren Masonry,* 735 N.W.2d 713, 719 (Minn. 2007). We presume that Minnesota statutes are constitutional and will declare a statute unconstitutional only "with extreme caution and only when absolutely necessary." *Weir v. ACCRA Care, Inc.*, 828 N.W.2d 470, 472 (Minn. App. 2013) (quotation omitted) (reviewing provision in unemployment statutes).

A. Equal Protection

The Equal Protection Clause of the United States Constitution provides, "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. The right to equal protection in Minnesota is contained in a

constitutional provision that states, "No member of this state shall be disenfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers." Minn. Const. art. I, § 2. The two clauses are "analyzed under the same principles." *State v. Johnson*, 813 N.W.2d 1, 11 (Minn. 2012) (quotation omitted). Neither clause absolutely "'forbid[s] classifications'"; both clauses "'simply keep[] governmental decisionmakers from treating differently persons who are in all relevant aspects alike.'" *Id.* at 12 (quoting *Nordlinger v. Hahn*, 505 U.S. 1, 10, 112 S. Ct. 2326, 2331 (1992)). In other words, "similarly situated individuals shall be treated alike, but only invidious discrimination is deemed constitutionally offensive." *State v. Garcia*, 683 N.W.2d 294, 298 (Minn. 2004) (quotation omitted).

The threshold issue in our equal-protection analysis is whether the "claimant is treated differently from others to whom the claimant is similarly situated in all relevant respects." *Johnson*, 813 N.W.2d at 12; *see also Weir*, 828 N.W.2d at 472. This requirement reflects the principle that the state is not required to treat individuals who are "different in fact or opinion as though they were the same in law." *State v. Behl*, 564 N.W.2d 560, 568 (Minn. 1997). If the threshold "similarly situated" requirement is satisfied, the issue then is whether there is a "rational basis" for the different treatment, so long as the statute does not implicate a "suspect classification or a fundamental right." *Garcia*, 683 N.W.2d at 298; *see also Weir*, 828 N.W.2d at 473.

1. Similarly Situated

As stated above, the threshold issue is whether the "claimant is treated differently from others to whom the claimant is similarly situated in all relevant respects." *Johnson*,

813 N.W.2d at 12. Baldridge contends that the two groups in this case -- those to whom the exception applies and those to whom it does not -- are similar in the following relevant respects: all have applied for and are receiving Social Security old-age benefits, all were actively working and earning wage credits while collecting Social Security old-age benefits, all had their unemployment involuntarily terminated, and none of them had control over their employment-termination date. The department argues that the two groups are not similarly situated because one group worked and collected Social Security benefits for the entire base period while the other did not.

The two groups identified by Baldridge are not *identically* situated. The persons in one group were actively working and earning wage credits while collecting Social Security old-age benefits for a full year or more, while the persons in the other group were doing so for less than one year. But the law requires only that the two groups be *similarly* situated. *Id.* A person such as Baldridge, who was earning wage credits while receiving Social Security old-age benefits for eleven months, is fairly similar to a person who was doing so for twelve or thirteen months, more so than a person who was doing so for only one month. For purposes of this opinion, we conclude that Baldridge has satisfied the threshold requirement because the exception in paragraph (b) confers different treatment on two groups of persons who are sufficiently similar.

2. Rational-Basis Test

The next question is whether the statutory exception in paragraph (b) is justified by a rational basis. The rational-basis analysis prescribed by the Minnesota Constitution, which is "more intensive" than the federal rational-basis analysis, "requires an actual and

identifiable connection between the statutory classification and the purpose to be achieved." *State v. Brown*, 689 N.W.2d 796, 800 (Minn. App. 2004), *review denied* (Minn. Dec. 13, 2005). Accordingly, if a statute survives scrutiny under the Minnesota rational-basis test, it also survives scrutiny under the federal rational-basis test. *See id.* at 799-800. Minnesota's rational-basis test requires an analysis of three elements:

> (1) The distinctions which separate those included within the classification from those excluded must not be manifestly arbitrary or fanciful but must be genuine and substantial, thereby providing a natural and reasonable basis to justify legislation adapted to peculiar conditions and needs; (2) the classification must be genuine or relevant to the purpose of the law; that is there must be an evident connection between the distinctive needs peculiar to the class and the prescribed remedy; and (3) the purpose of the statute must be one that the state can legitimately attempt to achieve.

State v. Benniefield, 678 N.W.2d 42, 46 (Minn. 2004) (quotation omitted). Unlike the more deferential federal standard, the Minnesota standard does not allow courts "to hypothesize a rational basis to justify a classification." *State v. Russell*, 477 N.W.2d 886, 889 (Minn. 1991).

a. Distinction Between Classifications

First, we must consider whether the distinction made by section 268.085, subdivision 4(b), is "genuine and substantial, thereby providing a natural and reasonable basis to justify legislation adapted to peculiar conditions and needs." *See Benniefield*, 678 N.W.2d at 46 (quotation omitted).

The legislature expressly stated its rationale for the exception in paragraph (b): "to ensure that an applicant who is claiming Social Security benefits has demonstrated a

desire and ability to work." Minn. Stat. § 268.085, subd. 4(b). In another statutory provision, the legislature stated that the purpose of the unemployment benefits program is to provide "temporary partial wage replacement to assist the unemployed worker to become reemployed." Minn. Stat. § 268.03, subd. 1 (2012). Read together, these two statutes reveal that the legislature wished to avoid the situation in which full unemployment benefits are awarded to a retired person who is collecting Social Security old-age benefits but has no intention of becoming reemployed.

The legislature chose to implement the distinction between classifications by referring to the length of time that the applicant has both worked and received Social Security benefits and by setting that period at exactly one year. This bright-line distinction means that some people will be very close to meeting the requirements of the exception but nonetheless ineligible. This feature, by itself, does not make the statutory exception unconstitutional. The legislature frequently must draw bright lines when enacting statutes, but the courts have rejected arguments that those statutes are consequently unconstitutional. *See, e.g.*, *Bituminous Cas. Corp. v. Swanson*, 341 N.W.2d 285, 287-89 (Minn. 1983) (rejecting equal-protection challenge to statute allowing 17-year-old employee to receive greater workers' compensation benefits than 18-year-old employee); *Backdahl v. Commissioner of Pub. Safety*, 479 N.W.2d 89, 91-92 (Minn. App. 1992) (rejecting equal-protection challenge to statute allowing license revocation period to be greater for 17-year-old driver than for 18-year-old driver), *review denied* (Minn. Feb. 27, 1992).

Thus, the distinction in section 268.085, subdivision 4(b), is not manifestly arbitrary or fanciful but, rather, is genuine and substantial. *See Benniefield*, 678 N.W.2d at 46.

b. Classification Relevant to Statutory Purpose

Second, we must consider whether the classifications drawn by the statute are relevant to the statutory purpose. *Id.* The legislature chose to use the applicant's four-quarter base period as the means of determining whether the applicant has "demonstrated a desire and ability to work." Minn. Stat. § 268.085, subd. 4(b). The legislature's decision to use an applicant's base period is rational and not arbitrary. The four-quarter base period is clearly defined by statute, Minn. Stat. § 268.035, subd. 4, and regularly is used by the department to determine an applicant's "wage credits," which determine the applicant's benefit amount, *see id.*, subd. 27; *see also* Minn. Stat. § 268.07 (2012). The four-quarter base period is a rational length of time to use for a reasonably accurate determination whether an applicant has a desire and ability to become reemployed while collecting Social Security old-age benefits. Thus, the classifications drawn by the statute are relevant to the statutory purpose. *See Benniefield*, 678 N.W.2d at 46.

c. Legitimate Purpose

Third, we must consider whether the statute has a legitimate purpose. *Id.* Baldridge does not dispute that the statutory exception has a legitimate purpose. Baldridge contends only that the statute is not the best means of promoting its legitimate purpose. Because a suspect classification or fundamental right is not at stake, the statute need not be narrowly tailored. *See Greene v. Commissioner of Human Servs.*, 755

N.W.2d 713, 725-26 (Minn. 2008). Thus, the statutory exception in paragraph (b) satisfies the third prong of the rational-basis test. *See Benniefield*, 678 N.W.2d at 46.

Therefore, section 268.085, subdivision 4(a), does not violate Baldridge's constitutional right to equal protection.

B. Due Process

Baldridge also argues briefly that section 268.085, subdivision 4(a), violates his right to due process. He does not develop the argument. He cites only one case, *Schulte v. Transportation Unlimited, Inc.*, 354 N.W.2d 830 (Minn. 1984), which held that an applicant was denied due process because he did not receive sufficiently specific notice from the department when his former employer filed an administrative appeal. *Id.* at 835. The *Schulte* opinion does not apply to the present case because Baldridge does not contend that he did not receive proper notice. In short, Baldridge has failed to demonstrate that section 268.085, subdivision 4(a), violates his constitutional right to due process.

Affirmed.