



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable John D. Reed, Commissioner
Bureau of Labor Statistics
Austin, Texas

Dear Sir:

Opinion No. O-5562

Re: Is a corporation required to
give a discharged employee
a statement in writing of the
cause of his discharge?

We have received your letter of recent date request-
ing our opinion upon the above stated question. Your letter
reads as follows:

"Reference is made to Article 5195, Revised
Civil Statutes, Section 3, which provides, in
part, that 'where any corporation, or receiver
of the same, doing business in this State, or
any agent or employe of such corporation or
receiver, shall have discharged an employe and
such employe demands a statement in writing of
the cause of his discharge, and such corporation,
receiver, agent or employe thereof fails to
furnish a true statement of the same to such
discharged employe, within ten days after such
demand . . .

"Where an employe has been discharged by a
corporation, and said employe has demanded in
writing in accordance with Article 5195, Revised
Civil Statutes, Section 3, 'I hereby demand a
statement in writing the cause of my discharge
from the (name of Corporation):

"Where said Corporation answered the above
with 'We have your letter of June 7, 1941, which
was received in this office on June 18, 1941.
The Application for Employment which you signed

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at Big Spring on September 5, 1933, contains the following statement: "Should I be given employment by you, either the position applied for, or some other, now or hereafter, I hereby agree that such employment may be terminated by you at any time without liability to me for wages or salary except such as may have been earned at the date of such termination." We therefore were not required to have any reason for your termination. Further, we understand Texas Courts have declared a statute such as that mentioned in your letter of June 7th, unconstitutional. (Signed) Assistant General Superintendent.'

"Your opinion will be appreciated on the question -- is a Corporation required to give a discharged employe a statement in writing the cause of his discharge -- in order that we may determine what procedure, if any, to take on a matter that is now pending before this Department."

Article 5195, Vernon's Civil Statutes, reads, in part, as follows:

"Either or any of the following acts shall constitute discrimination against persons seeking employment:

* * * *

"3. Where any corporation, or receiver of the same, doing business in this state, or any agent or employee of such corporation or receiver, shall have discharged an employee and such employee demands a statement in writing of the cause of his discharge, and such corporation, receiver, agent or employee thereof fails to furnish a true statement of the same to such discharged employee, within ten days after such demand, or where any corporation or receiver of the same, or any officer or agent of such corporation or receiver shall fail, within ten days after written demand for the same, to furnish to any employee voluntarily leaving the service of such corporation or receiver, a statement in writing that such employee did leave such service

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voluntarily, or where any corporation or receiver of the same, doing business within this state, shall fail to show in any statement under the provision of this title the number of years and months during which such employee was in the service of the said corporation or receiver in each and every separate capacity or position in which he was employed, and whether his services were satisfactory in each such capacity or not, or where any such corporation or receiver shall fail within ten days after written demand for the same to furnish to any such employee a true copy of the statement originally given to such employee for his use in case he shall have lost or is otherwise deprived of the use of said original statement."

The law known as the statute against Blacklisting was originally passed in 1907 by the Thirtieth Legislature. (Acts 1907, Thirtieth Leg., Page 148, Chapter 67).

In 1909 the Thirty-first Legislature amended Section 1 of the above Act of the Thirtieth Legislature, and said Act as amended is identical in language with Article 5196, supra, which was enacted by the Forty-first Legislature in 1929. (Acts 1909, Thirty-first Leg., Page 160, Chapter 89; Acts 1929, Forty-first Leg., Page 509, Chapter 245, Sec. 1).

The reason for the reenactment of the blacklisting statute in 1929 by the Forty-first Legislature, as stated in the emergency clause, was because the "codifiers of the Revised Civil Statutes of Texas, of 1925, omitted from the definition of discrimination many of the material provisions of the former law on the subject as set out in Article 594 of the Revised Civil Statutes of 1911, * * *."

In 1914 the Supreme Court of Texas, in the case of St. Louis Southwestern Ry. Co. vs. Griffin, 171 S.W. 703, held Section 3 of Article 594 of the Revised Civil Statutes of 1911 (which is identical in language with Section 3 of Article 5196, Vernon's Civil Statutes) unconstitutional.

Obviously, the reason that the codifiers of the Revised Civil Statutes of Texas, of 1925, omitted said Article 594 from the 1925 codification was due to the fact that this Article had been declared unconstitutional by the

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Supreme Court in the case of St. Louis Southwestern Ry. Co. vs. Griffin, supra.

It is our opinion that the decision of the Supreme Court in the above cited case is controlling and decides the question presented in your inquiry; therefore, it is the opinion of this department that Section 3 of Article 5196, Vernon's Civil Statutes is unconstitutional, and that a corporation is not required to give a discharged employee a statement in writing of the cause of his discharge.

Trusting that the above satisfactorily disposes of your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED JUL 25, 1941

Robert Keller

FIRST ASSISTANT
ATTORNEY GENERAL

BY *D. Burle Daviss*

D. Burle Daviss
Assistant

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