ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY

MARIA ROSAS, et al. v. ARIZ. DEP'T OF ECON. SEC., et al.
CV-19-0100-PR

PARTIES:

Petitioner/Appellee: The Arizona Department of Economic Security ("ADES")

Respondents/Appellants: Maria Rosas, Maria Castillo, Alicia Solorzano, and Xochitl Correa (collectively, "the Employees")

FACTS:

Statutory Framework. In 1976, Congress amended the Federal Unemployment Tax Act, 26 U.S.C. §§ 3301, *et seq.*, by extending unemployment insurance coverage to employees of public and nonprofit elementary and secondary schools. A school employee was not eligible for benefits between school terms if he or she had a contract or a reasonable assurance of reemployment in the next year or term. The restriction applied to school professionals and, at the states' option, nonprofessional employees. By the early 1980s, Arizona adopted both the required portion of the restrictions and the optional limitation. *See* A.R.S. § 23-750(E)(1) & (2).

These statutes did not extend to employees of any nonprofit organization or state or local governmental entity that provided services to an "educational institution." Congress plugged that hole in 1983, when it created a new exception giving the states the option of denying benefits to employees of nonprofit organizations and governmental entities under the same circumstances as described above "if such services are provided to or on behalf of an educational institution."

In 2012, A.R.S. § 23-750(E) was amended to adopt that option in a new subsection (5):

> With respect to services described in paragraph 1, 2, or 3 of this subsection, benefits are not payable on the basis of services specified in paragraph 1, 2 or 3 of this subsection to any individual who performed these services while in the employ of an entity that provides these services to or on behalf of an educational institution.

The Employer. The Employees work for Chicanos Por La Causa ("CPLC"). CPLC operates licensed childcare facilities in various Arizona cities, offering services for children from six weeks old to five years old, as well as administering Early Head Start and Migrant and Seasonal Head Start programs as part of its Early Childhood Development ("ECD") program.

By statute, Head Start programs must make at least ten percent of their enrollment available to children with disabilities who are eligible for special education services under the federal Individuals with Disabilities Education Act ("IDEA"), 42 U.S.C. § 9835(d)(1). During the 2015-16 ECD program year, CPLC entered memoranda of understanding ("MOUs") [a type of agreement] with various local school districts. All the MOUs are roughly the same. The intent is "to establish working procedures between [the school district] and CPLC ECD in the provision of services to preschool children eligible for special education" in compliance with applicable law. The MOUs "appl[y] only to preschool children with disabilities who are three years old up to non-kindergarten eligible five-year-olds.'"

The Employees and Their Claims. Each of the Employees worked in one of CPLC's childcare facilities during its 2015-2016 ECD program year. Maria Rosas and Xochitl Correa worked as infant and toddler teachers, working with children under the age of three. Maria Castillo and Alicia Solorzano worked as cooks in two of the facilities.

Each of the Employees applied to ADES for unemployment insurance benefits when their employment with CPLC ended for the 2015-2016 ECD program year. Their applications were ultimately denied by ADES Appeals Board, which relied on A.R.S. § 23-750(E)(5). It believed that under the statute, it needed to address only two questions: (1) "Does the Employer provide services to or on behalf of an education institution?" and (2) "Did the Claimant have a contract or a reasonable assurance of returning to the employment with the Employer after the summer recess?" And here, it ruled the Employees were ineligible for benefits because their employer, CPLC, provided services to or on behalf of an educational institution, and each Employee had a contract or a reasonable assurance of reemployment with CPLC in the next academic year or term. It made no findings about whether any of the Employees personally provided the school districts with the services their Employer provided under the MOUs. The Employees then appealed.

Court of Appeals' Opinion. On appeal, the Employees contended that the Appeal Board misinterpreted A.R.S. § 23-750(E)(5) by holding that the denial-of-benefit exclusion applied to the Employees if their employer provided services the statute described. That interpretation, they argued, overlooked that the statute applied only to an individual "who performed these services," which meant that it applied only if the Employees *personally* performed any of the services their employer provided to or on behalf of the school districts. And here, they contended, the Board erred in denying benefits because none of the Employees performed the services CPLC agreed to provide to the local school districts during 2015-16 academic year.

The Court of Appeals agreed. The court under said that under A.R.S. § 23-750(E)(5), the Employees were precluded from receiving benefits only if they "individually performed any of the MOU services, i.e., screening three to five-year-old preschool students for disabilities subject to IDEA," an issue that the Appeal Board did not address. And it found that the evidence did not support such a finding here. The two infant and toddler teachers taught children who were younger than three, too young to be part of the Early Head Start program. It also noted that if the Employees were involved in screening, "only a maximum of ten percent of the enrolled students would have disabilities." From that it reasoned that "both teachers *would also* serve nondisabled children," and therefore would be eligible for benefits. It further explained that there was no evidence that the two cooks were personally providing services under the MOUs.

ISSUES:

The Supreme Court has asked the parties to address two issues:

(1) Did the Court of Appeals misinterpret A.R.S. § 23-750(E), the agreements between the parties, and the Board's decisions?

(2) Did the Court of Appeals ignore factual evidence that supported the Board's decisions?