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and conclusive in the state habeas corpus proceeding by virtue of the doctrine of *res judicata*. *State ex rel. Harrison v. Coiner*, 176 S.E.2d 677 (W. Va. 1970).

In reaching this decision the Supreme Court of Appeals relied on *State ex rel. Cephas v. Boles*, 149 W. Va. 537, 142 S.E.2d 463 (1965), and *State ex rel. Beckett v. Boles*, 149 W. Va. 112, 138 S.E.2d 851 (1964), which held a federal district court decision is final and conclusive in a habeas corpus proceeding in a state court by virtue of the doctrine of *res judicata*, when such decision involved identical parties and determined identical questions. See *Douglas v. California*, 372 U.S. 353 (1963), for a case involving an indigent's right to counsel on appeal, and *Griffin v. Illinois*, 351 U.S. 12 (1956), for a case involving an indigent's right to a trial transcript for appeal purposes. In addition, see Note, *Habeas Corpus in West Virginia* 69 W. VA. L. REV. 293 (1967), for an article on habeas corpus proceedings in West Virginia.

Statutory Construction—Dismissal Hearing Before Board of Education

By a "Notice of Appointment" from the West Virginia Board of Education, petitioner was notified of his appointment to the position of assistant football coach at a state university for a period of twelve months, beginning July 1, 1969. However, by letter dated August 1, 1969, petitioner was informed that recommendation for termination of his contract was being forwarded to the West Virginia Board of Regents for their approval on the grounds of incompetent performance of duties. Subsequently, by letter signed by the president of the university dated August 28, 1969, the termination was confirmed, effective September 30, 1969. When petitioner sought an appeal of his dismissal, the Board of Regents confirmed the action and dismissed the appeal. Following the dismissal, petitioner sought a writ of mandamus, contending that it was a denial of due process of law to terminate his contract without his being afforded a hearing as provided by W. Va. Code ch. 18A, art. 2, § 8 (Michie 1969). *Held*, writ denied. *State ex rel Kondos v. West Virginia Bd. of Regents*, 175 S.E.2d 165 (W. Va. 1969). The Board of Regents was under no obligation to grant petitioner a hearing prior to his dismissal.

W. Va. Code ch. 18A, art. 2, § 8 (Michie 1969), entitled "Suspension and dismissal of school personnel by board", provides that a person dismissed for "[i]mmorality, incompetency, cruelty, insubordination, intemperance or wilful neglect of duty" shall have the opportunity to be heard by the "board". W. Va. Code ch. 18, art. 1, § 1 (Michie 1966) defines "board" as "the county board of education" and W. Va. Code ch. 18A, art. 1, § 1 (Michie 1969) makes definitions contained in Chapter 18 applicable to Chapter 18A. Consequently, the court held that the provision for a hearing related only to personnel employed by a county board of education, and therefore petitioner, an employee of a university, was not covered by the provision.

Petitioner, relying on the statutory definitions of "School" and "Teacher", further contended that he should be classified as "School Personnel" under W. Va. Code ch. 18A, art. 2, § 8 (Michie 1969). As defined by W. Va. Code ch. 18, art. 1, § 1(a) (Michie 1966), "School" is to "mean the pupils and teacher or teachers assembled in one or more buildings, organized as a unit". W. Va. Code ch. 18, art. 1, § 1(g) (Michie 1966) states that "Teacher" refers to "any person regularly employed for instructional purposes in a public school". Petitioner reasoned that his position as assistant football coach at a state university qualified him as an employee instructing in a "public school". Acknowledging that "public school" is nowhere defined in the Code, the court stated that the term related to elementary and secondary schools and did not include colleges and universities. The court further noted that no provision within W. Va. Code ch. 18, art. 26, § § 1-12 (Michie 1969), which established the Board of Regents and designated its functions, would allow petitioner the relief sought.