

Court of Appeals, State of Michigan

ORDER

Charles Terrence Fitzpatrick v Public School Employees Retirement System

Docket No. 307724

LC No. 06-001694-AA

Donald S. Owens
Presiding Judge

Peter D. O'Connell

Amy Ronayne Krause
Judges

The Court orders that the motion to file a reply to the answer is GRANTED.

The delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

Ronayne Krause, J., would grant the delayed application for leave to appeal. I appreciate Justice Holmes's general maxim that people must turn square corners when they deal with the Government. *Rock Island A & LR Co v US*, 254 US 141, 143; 41 S Ct 55; 65 L Ed 188 (1920). However, that is not an absolute, per se rule. There are circumstances, such as entrapment by estoppel, under which the government itself is responsible for a person's belief that their actions were proper and should therefore be held to its own statements. See *People v Woods*, 241 Mich App 545, 556-560; 616 NW2d 211 (2000). The situation at bar is obviously not as egregious as a government actor inducing a person to violate the law. However, it is notable that defendant explicitly offered the survivor benefit option at issue to the decedent and processed her application, going so far as to inform her that she had, in fact, successfully selected the 100% Survivor option naming plaintiff as her beneficiary. I believe that the circumstances of this case warrant, at a minimum, plenary consideration by this Court to determine if defendant should be held to its word. I additionally note that the terms member and deferred member seem to be used confusingly interchangeably, notwithstanding their supposedly different meanings. I would grant leave to appeal.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

SEP 19 2012

Date


Chief Clerk