

COA Opinion: Notes taken during a grievance proceeding are not considered “personnel records” subject to disclosure under ERKA

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During the plaintiff’s employment with Kellogg, he received a disciplinary action that resulted in a 34-day suspension. The plaintiff subsequently filed a grievance regarding this disciplinary action. Dissatisfied with the grievance process, plaintiff then requested copies of his personnel records regarding the grievance procedure. Kellogg obliged and provided plaintiff’s personnel record to his attorney. But plaintiff also requested notes from grievance meetings or other notes that management kept, which Kellogg refused to provide. Plaintiff then filed this lawsuit, claiming that Kellogg violated the Bullard-Plawecki Employee Right to Know Act (ERKA) by refusing to release the requested notes. The trial court granted Kellogg’s motion for summary judgment, finding that the notes are exempt from disclosure. On June 22, 2010, the Court of Appeals published its opinion in [Wright v. Kellogg Co., No. 290130](#), affirming the trial court. ERKA establishes an employee’s right to examine personnel records. ERKA expressly defines “personnel record,” which includes a record that identifies an employee and “is used or has been used, or may affect or be used relative to that employee’s . . . disciplinary action.” MCL § 423.501(2)(c). However, the following is a statutory exception to the general definition of “personnel record”: “[r]ecords limited to grievance investigations which are kept separately and are not used for the purposes provided in this subdivision.” MCL § 423.501(2)(c)(vi). The Court of Appeals concluded that the requested notes fell within this exclusion.