

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Nestor v. Bruce Hardwood Floors, L.P., 210 W. Va. 692

558 S.E.2d 691 (2001) · No. No. 29328 · Decided December 12, 2001

SUMMARY

The Supreme Court of Appeals of West Virginia reviewed summary judgment for Bruce Hardwood Floors in Dale Nestor’s workers’ compensation discrimination action. The court held that Nestor presented a prima facie case and that genuine issues of material fact existed regarding discriminatory motive, the employer’s safety-policy justification, and punitive damages. The court reversed and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	West Virginia
DECIDED	December 12, 2001
DOCKET	No. 29328
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the Circuit Court of Tucker County granting the employer's motion for summary judgment in a workers' compensation discrimination action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. At the summary judgment stage, permissible inferences must be drawn in favor of the nonmoving party, and the plaintiff's initial showing of facts supporting a prima facie discrimination case is de minimis.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Dale G. Nestor, II v. Bruce Hardwood Floors, L.P., d/b/a Bruce Hardwood, a Division of B.H.F.G. Corporation

TOPICS

- workers compensation
- employment law
- summary judgment
- civil procedure
- damages

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Nestor presented sufficient evidence to establish a prima facie case of workers' compensation discrimination.
2. Whether disputed facts concerning the timing of the termination, Nestor's work record, the employer's supervisor bonus policy, and the alleged safety violation precluded summary judgment.
3. Whether the circuit court's ruling that punitive damages were unavailable was premature.

HOLDINGS

1. Nestor presented sufficient evidence to establish a prima facie case because he sustained an on-the-job injury, instituted proceedings under the Workers' Compensation Act, and presented evidence from which a factfinder could infer that the filing of his workers' compensation claim was a significant factor in his termination.
2. Summary judgment was improper because genuine disputes existed regarding whether Nestor violated the safety policy and whether the employer's stated legitimate reason for termination was pretextual.
3. The circuit court's ruling that punitive damages were unavailable was premature because the underlying claim could proceed to trial.

KEY QUOTATIONS

"A circuit court's entry of summary judgment is reviewed de novo." (694)

"In order to make a prima facie case of discrimination under W.Va.Code, 23-5A-1, the employee must prove that: (1) an on-the-job injury was sustained; (2) proceedings were instituted under the Workers' Compensation Act, W.Va.Code, 23-1-1, et seq.; and (3) the filing of a workers' compensation claim was a significant factor in the employer's decision to discharge or otherwise discriminate against the employee." (695)

"In determining whether the plaintiff has met the de minimis initial burden of showing circumstances giving rise to an inference of discrimination, the function of the circuit court on a summary judgment motion is to determine whether the proffered admissible evidence shows circumstances that would be sufficient to permit a rational finder of fact to infer a discriminatory motive." (696)

FACTUAL BACKGROUND

Nestor worked for Bruce Hardwood as a 502 machine operator and had an excellent employment record. On May 19, 1998, he injured his finger while attempting to remove jammed wood from the machine and began paperwork to seek workers' compensation benefits. Bruce Hardwood terminated him the next day, asserting that he had violated a safety rule prohibiting employees from reaching into a machine while it was running or before its moving parts had stopped. Nestor disputed whether the machine was still moving and presented evidence that supervisors' bonuses were reduced for each work-related injury.

PROCEDURAL HISTORY

Nestor sued Bruce Hardwood alleging that he was terminated because he filed a workers' compensation claim and sought compensatory and punitive damages. The circuit court initially granted summary judgment for Bruce Hardwood; the Supreme Court of Appeals reversed and remanded in 1999 for findings of fact and conclusions of law. On remand, the circuit court reaffirmed summary judgment for Bruce Hardwood and denied Nestor's motion for reconsideration and motion for partial summary judgment. Nestor again appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion.

CASES CITED

- Nestor v. Bruce Hardwood Flooring, L.P., 206 W. Va. 453, 525 S.E.2d 334 (1999)
- Fayette County Nat. Bank v. Lilly, 199 W. Va. 349, 484 S.E.2d 232 (1997)
- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Shanholtz v. Monongahela Power Co., 165 W. Va. 305, 270 S.E.2d 178 (1980)
- Powell v. Wyoming Cablevision, Inc., 184 W. Va. 700, 403 S.E.2d 717 (1991)
- St. Peter v. Ampak-Division of Gatewood Products, Inc., 199 W. Va. 365, 484 S.E.2d 481 (1997)
- Barefoot v. Sundale Nursing Home, 193 W. Va. 475, 457 S.E.2d 152 (1995)
- Hanlon v. Chambers, 195 W. Va. 99, 464 S.E.2d 741 (1995)
- Conaway v. Eastern Associated Coal Corp., 178 W. Va. 164, 358 S.E.2d 423 (1986)
- Conrad v. ARA Szabo, 198 W. Va. 362, 480 S.E.2d 801 (1996)
- Price Waterhouse v. Hopkins, 490 U.S. 228, 109 S. Ct. 1775, 104 L. Ed. 2d 268 (1989)
- Bailey v. Norfolk and Western Ry. Co., 206 W. Va. 654, 527 S.E.2d 516 (1999)
- Page v. Columbia Natural Resources, Inc., 198 W. Va. 378, 480 S.E.2d 817 (1996)