

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Joseph C. McComas II v. Mercer County Board of Education

No. 16-0734 (Mercer County 15-C-127) · No. No. 16-0734 (Mercer County 15-C-127) · Decided September 5, 2017

SUMMARY

The West Virginia Supreme Court of Appeals affirmed summary judgment for the Mercer County Board of Education in a defamation action arising from the posting of employment-termination hearing minutes. The court held that the petitioner waived his appellate argument concerning an alleged resignation because he had not raised it before the circuit court, and it found no prejudicial error in the judgment based on qualified immunity.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Allen H. Loughry II; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	September 5, 2017
DOCKET	No. 16-0734 (Mercer County 15-C-127)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed from the Circuit Court of Mercer County's order granting the Mercer County Board of Education's motion for summary judgment and dismissing his defamation suit.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is appropriate when there is no genuine issue of material fact and the record could not lead a rational trier of fact to find for the nonmoving party.
PRECEDENTIAL VALUE	Published memorandum decision
PARTIES	Joseph C. McComas II v. Mercer County Board of Education

TOPICS

- summary judgment
- defamation
- waiver
- appellate procedure
- standard of review

PRACTICE AREAS

civil procedure

defamation

appellate procedure

employment law

QUESTIONS PRESENTED

1. Whether the circuit court erred in granting summary judgment to the Board in McComas's defamation action.
2. Whether McComas could obtain appellate relief based on his assertion that he had submitted a resignation letter before the termination hearing when he did not raise that argument in the circuit court.

HOLDINGS

1. The circuit court's order granting the Board's motion for summary judgment was affirmed. McComas did not demonstrate prejudicial error or explain why the asserted factual dispute defeated the circuit court's qualified-immunity ruling.
2. McComas waived his argument that his attempted resignation created a genuine issue of material fact because he did not raise that argument before the circuit court.

KEY QUOTATIONS

"A circuit court's entry of summary judgment is reviewed de novo." (at 1)

"This Court's general rule is that nonjurisdictional questions not raised at the circuit court level will not be considered to the first time on appeal." (at 2)

FACTUAL BACKGROUND

McComas's employment with the Mercer County Board of Education was terminated after an April 2014 hearing at which the Board considered alleged poor performance, inappropriate language in the classroom, failure to follow lesson plans, and falling asleep in class. The Board memorialized its findings in meeting minutes and posted those minutes on its website in accordance with its normal practice. McComas alleged that the posting defamed him and impaired his ability to obtain new employment, and he disputed the finding concerning inappropriate language.

PROCEDURAL HISTORY

McComas filed a defamation action in April 2015 based on the Board's posting of minutes from an employment-termination hearing. The Board moved for summary judgment in January 2016, and after a June 2016 hearing, the circuit court granted the motion on qualified-immunity grounds. McComas appealed, arguing that a genuine issue of material fact existed, but he did not challenge the qualified-immunity ruling or show that his resignation argument had been presented below.

DISPOSITION

affirmed

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Aetna Casualty & Surety Co. v. Federal Insurance Co. of New York, 148 W. Va. 160, 133 S.E.2d 770 (1963)
- Andrick v. Town of Buckhannon, 187 W. Va. 706, 421 S.E.2d 247 (1992)
- Toth v. Board of Parks & Recreation Commissioners, 215 W. Va. 51, 593 S.E.2d 576 (2003)
- State v. Jessie, 225 W. Va. 21, 27, 689 S.E.2d 21, 27 (2009)

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