

SUPREME COURT OF NORTH DAKOTA

Potts v. City of Devils Lake

Potts, 2021 ND 2 (N.D. 2021) · No. 20200144 · Decided January 12, 2021

SUMMARY

The North Dakota Supreme Court affirmed summary judgment for the City of Devils Lake and the Devils Lake Police Department in Brandon Potts’s wrongful-termination action. The court held that North Dakota law does not recognize a public-policy exception to the employment-at-will doctrine for law enforcement officers acting in self-defense. A concurrence would have foreclosed judicial recognition of any additional public-policy exceptions to the statutory at-will rule.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Daniel J. Crothers; Gerald W. VandeWalle; Lisa Fair McEvers; Jerod E. Tufte; Jon J. Jensen
JURISDICTION	North Dakota
DECIDED	January 12, 2021
DOCKET	20200144
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting the defendants' cross-motion for summary judgment and dismissing a wrongful-termination claim.
STANDARD OF REVIEW	Whether summary judgment was properly granted is reviewed de novo on the entire record. The evidence is viewed in the light most favorable to the party opposing summary judgment.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of North Dakota; precedential.
PARTIES	Brandon Potts v. City of Devils Lake, Devils Lake Police Department

TOPICS

- employment at-will
- wrongful termination
- employment law
- appellate procedure
- municipal law

PRACTICE AREAS

- employment law
- wrongful termination
- municipal law

QUESTIONS PRESENTED

1. Whether North Dakota law recognizes a public-policy exception to the employment-at-will doctrine for law-enforcement officers who act in self-defense while performing official duties.
2. Whether the district court properly granted summary judgment to the City of Devils Lake and the Devils Lake Police Department.

HOLDINGS

1. North Dakota law does not recognize a public-policy exception to the employment-at-will doctrine for law-enforcement officers who act in self-defense.
2. Summary judgment for the defendants was proper because the issue was a question of law and no legally cognizable public-policy exception supported Potts's wrongful-termination claim.

KEY QUOTATIONS

“Under current law, that fact-dependent application does not supply a clear right for us to recognize an exception to at-will employment. Instead, the Legislature is better equipped to decide whether to recognize any such specific exception to at-will employment under N.D.C.C. § 34-03-01.” (2021 ND 2, ¶ 18)

“The district court did not err in holding under North Dakota law no public policy exception to the at-will employment doctrine exists for law enforcement officers who act in self-defense.” (2021 ND 2, ¶ 19)

FACTUAL BACKGROUND

Brandon Potts was hired as a patrol officer by the Devils Lake Police Department in 2008 and promoted to detective in 2013. In July 2018, while attempting to arrest a suspect, Potts's service weapon discharged, striking and killing the suspect. The City terminated Potts in February 2019, and Potts alleged that the termination violated public policy because his conduct involved lawful self-defense while performing his official duties.

PROCEDURAL HISTORY

Potts sued the City of Devils Lake and the Devils Lake Police Department after his termination, alleging that the termination violated public policy. The parties converted a joint motion for certification of a question of law into cross-motions for summary judgment. The Ramsey County District Court granted summary judgment to the defendants, and Potts appealed.

DISPOSITION

affirmed

CASES CITED

- McCormick, Inc. v. Fredericks, 2020 ND 161, 946 N.W.2d 728
- Krebsbach v. Trinity Hosps., Inc., 2020 ND 24, 938 N.W.2d 133
- Yahna v. Altru Health Sys., 2015 ND 275, 871 N.W.2d 580

- Dahlberg v. Lutheran Soc. Servs. of N.D., 2001 ND 73, 625 N.W.2d 241
- Jose v. Norwest Bank, 1999 ND 175, 599 N.W.2d 293
- Spratt v. MDU Res. Grp., Inc., 2011 ND 94, 797 N.W.2d 328
- Hunt v. Banner Health Sys., 2006 ND 174, 720 N.W.2d 49
- Ressler v. Humane Soc., 480 N.W.2d 429 (N.D. 1992)
- Krein v. Marian Manor Nursing Home, 415 N.W.2d 793 (N.D. 1987)
- Lee v. Walstad, 368 N.W.2d 542 (N.D. 1985)
- Ray v. Wal-Mart Stores, Inc., 359 P.3d 614 (Utah 2015)
- Feliciano v. 7-Eleven, Inc., 559 S.E.2d 713 (W. Va. 2001)
- Envtl. Driven Solutions, LLC v. Dunn County, 2017 ND 45, 890 N.W.2d 841
- Bartholmay v. Plains Grain & Agronomy, LLC, 2016 ND 138, 881 N.W.2d 249
- State v. Vandermeer, 2014 ND 46, 843 N.W.2d 686
- In re Mangelsen, 2014 ND 31, 843 N.W.2d 8
- Rodenburg v. Fargo-Moorhead Young Men's Christian Ass'n, 2001 ND 139, 632 N.W.2d 407
- Hoven v. Walgreen Co., 751 F.3d 778 (6th Cir. 2014)
- Keshe v. CVS Pharmacy Inc., 2016 WL 1367702 (C.D. Cal. Apr. 5, 2016), aff'd, 711 F. App'x 396 (9th Cir. 2017)
- Johnson v. CVS Pharmacy, Inc., 2011 WL 4802952 (N.D. Cal. Oct. 11, 2011)
- Riba v. Wal-Mart Stores E., L.P., 2010 WL 11565622 (N.D. Fla. Aug. 26, 2010)
- Bruley v. Vill. Green Mgmt. Co., 592 F. Supp. 2d 1381 (M.D. Fla. 2008), aff'd, 333 F. App'x 491 (11th Cir. 2009)
- Altschuld v. CVS Caremark Corp., 2015 WL 794964 (D. Md. Feb. 24, 2015)
- Bagwell v. Peninsula Reg'l Med. Ctr., 665 A.2d 297 (Md. Ct. Spec. App. 1995)
- McLaughlin v. Barclays Am. Corp., 382 S.E.2d 836 (N.C. 1989)
- Amos v. Oakdale Knitting Co., 416 S.E.2d 166 (N.C. 1992)
- Scott v. Extracorporeal, Inc., 545 A.2d 334 (Pa. Super. Ct. 1988)
- State ex rel. Burgum v. Hooker, 87 N.W.2d 337 (N.D. 1957)
- Retherford v. AT&T Commc'ns, 844 P.2d 949 (Utah 1992)