

COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT

River Oaks L-M. Inc. D/B/A West Point Lincoln Mercury v. Veronica Vinton-Duarte

469 S.W.3d 213 (Tex. App.—Houston [14th Dist.] 2015) · No. No. 14-14-00059-CV · Decided May 28, 2015

SUMMARY

The Texas Fourteenth Court of Appeals reviewed a jury verdict involving sexual harassment, retaliatory discharge, defamation, and the employer’s counterclaims for theft, conversion, breach of fiduciary duty, and fraud. The court held that legally sufficient evidence supported the harassment and retaliation findings and that the employer’s affirmative defenses were not conclusively established, but it determined that the trial court improperly applied the Texas Labor Code damages cap. The court modified the judgment to reflect the proper damages and affirmed it as modified, including the trial court’s judgment notwithstanding the verdict on the defamation claims.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourteenth District
WRITING FOR THE COURT	Sharon McCally; Chief Justice Frost; Justice Boyce; Justice McCally
JURISDICTION	Texas
DECIDED	May 28, 2015
DOCKET	No. 14-14-00059-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal and cross-appeal from a final judgment entered after a jury trial involving sexual harassment, retaliation, defamation, and employer counterclaims for theft, conversion, breach of fiduciary duty, and fraud.
STANDARD OF REVIEW	Legal-sufficiency review views the evidence in the light most favorable to the challenged finding, credits favorable evidence a reasonable factfinder could credit, and disregards contrary evidence unless a reasonable factfinder could not. A party challenging an adverse finding on which it did not bear the burden must show no evidence supports it; a party challenging an adverse finding on which it bore the burden must show the contrary position was established as a matter of law. JNOV rulings are reviewed under the same legal-sufficiency standard.

PRECEDENTIAL VALUE	Published opinion; precedential under Texas appellate practice unless subsequently limited or overruled.
PARTIES	River Oaks L-M. Inc. d/b/a West Point Lincoln Mercury v. Veronica Vinton-Duarte

TOPICS

sexual harassment retaliation employment discrimination damages standard of review

PRACTICE AREAS

employment law employment discrimination civil rights torts

QUESTIONS PRESENTED

1. Whether legally sufficient evidence supported the jury's finding that Vinton-Duarte would not have been discharged when she was but for filing a sexual-harassment complaint.
2. Whether legally sufficient evidence supported the jury's findings that West Point knew or should have known of the harassment and failed to take prompt remedial action.
3. Whether West Point conclusively established the Faragher/Ellerth affirmative defense.
4. Whether legally sufficient evidence supported the award of attorney's fees to Vinton-Duarte and whether her fees were adequately segregated.
5. Whether legally sufficient evidence supported future lost earnings and employment benefits.
6. Whether West Point conclusively established an after-acquired-evidence defense to future employment damages.
7. Whether the Texas Labor Code damages cap applies per claim or per complainant and which cap applied.
8. Whether the evidence supported the compensatory-damages challenge based only on mental anguish.
9. Whether the trial court erred in granting JNOV on Vinton-Duarte's defamation claims.
10. Whether legally sufficient evidence supported West Point's counterclaims and its attorney's-fee award under the Texas Theft Liability Act.

HOLDINGS

1. Legally sufficient evidence supported the jury's finding that West Point retaliated against Vinton-Duarte and that she would not have been discharged when she was without making or filing the sexual-harassment complaint; she was not required to prove that the complaint was the sole cause of her discharge.
2. Legally sufficient evidence supported the jury's findings that West Point knew or should have known of the sexual harassment and failed to take prompt remedial action reasonably calculated to end it.

3. West Point did not conclusively establish the Faragher/Ellerth defense because legally sufficient evidence supported the jury's finding that West Point failed to exercise reasonable care and that Vinton-Duarte did not unreasonably fail to use available preventive or corrective procedures.
4. The Texas Labor Code compensatory-damages cap applies to each complainant rather than to each claim. West Point failed to conclusively establish that it had fewer than 201 employees, so the \$200,000 cap applied rather than the \$100,000 cap.
5. Legally sufficient evidence supported the jury's conversion findings and damages for the toolbox, cargo carrier, cargo bag, and wheels and tires, and supported the award of attorney's fees under the Texas Theft Liability Act.

KEY QUOTATIONS

“Vinton-Duarte was required to establish that West Point’s discharge of Vinton-Duarte would not have occurred when it did without her making or filing of a sexual-harassment complaint, and Vinton-Duarte was not required to establish that her making or filing of a sexual-harassment complaint was the sole cause of West Point’s discharge of Vinton-Duarte.” (at 15)

“the plain language of the statute reflects that the compensatory damages awarded under this provision apply to each complainant rather than to each claim.” (at 32)

FACTUAL BACKGROUND

Vinton-Duarte worked as an aftermarket sales manager at West Point from 2006 until her termination in September 2009. She presented evidence that male coworkers and managers subjected her to repeated sexually explicit comments, propositions, and unwanted touching, including an incident in which a manager rubbed her hand over his aroused penis. After she reported the harassment to human resources, West Point conducted a delayed and incomplete investigation and terminated her for alleged theft. The jury found sexual harassment and retaliation, while also finding West Point prevailed on certain theft-related counterclaims.

PROCEDURAL HISTORY

Vinton-Duarte sued West Point for sexual harassment, retaliatory discharge, and defamation. West Point counterclaimed for theft, conversion, breach of fiduciary duty, and fraud. The jury found for Vinton-Duarte on the sexual-harassment, retaliation, and defamation claims and for West Point on its counterclaims. The trial court granted West Point JNOV on the defamation claims but otherwise entered judgment on the verdict, including damages and attorney's fees. The court of appeals modified the damages award to apply the Texas Labor Code cap per complainant rather than per claim and affirmed the judgment as modified.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The judgment was modified to reflect the proper damages award under the Texas Labor Code cap, and the judgment was affirmed as modified.

CASES CITED

- City of Keller v. Wilson, 168 S.W.3d 802, 810, 814-15, 819, 822-23, 827 (Tex. 2005)
- Dow Chem. Co. v. Francis, 46 S.W.3d 237, 241 (Tex. 2001)
- McMillon v. Tex. Dep't of Ins., 963 S.W.2d 935, 939-40 (Tex. App.—Austin 1998, no pet.)
- Herbert v. City of Forest Hills, 189 S.W.3d 369, 377 (Tex. App.—Fort Worth 2006, no pet.)
- La Tier v. Compaq Computer Corp., 123 S.W.3d 557, 562 (Tex. App.—San Antonio 2003, no pet.)
- Adeshile v. Metro. Transit Auth. of Harris Cnty., No. 14-12-00980-CV, 2014 WL 3734140, at *4 (Tex. App.—Houston [14th Dist.] Jan. 16, 2014, pet. denied)
- Skidmore v. Precision Printing & Packaging, Inc., 188 F.3d 606, 615 (5th Cir. 1999)
- Williams-Boldware v. Denton Cnty., Tex., 741 F.3d 635, 640 (5th Cir. 2014), cert. denied, 135 S. Ct. 106 (2014)
- Faragher v. City of Boca Raton, 524 U.S. 775, 805-08 (1998)
- Burlington Indus., Inc. v. Ellerth, 524 U.S. 742, 764-65 (1998)
- Mota v. Univ. of Tex. Houston Health Sci. Ctr., 261 F.3d 512, 525-26 (5th Cir. 2001)
- El Apple I, Ltd. v. Olivas, 370 S.W.3d 757, 760-64 (Tex. 2012)
- Hensley v. Eckerhart, 461 U.S. 424, 433, 437 (1983)
- Tony Gullo Motors I, L.P. v. Chapa, 212 S.W.3d 299, 310, 313-14 (Tex. 2006)
- Black v. Pan Am. Lab., L.L.C., 646 F.3d 254, 263-64 (5th Cir. 2011)
- Brown v. Bank of Galveston, 963 S.W.2d 511, 515 (Tex. 1998)
- Osterberg v. Peca, 12 S.W.3d 31, 55 (Tex. 2000)
- KTRK Television v. Felder, 950 S.W.2d 100, 107 (Tex. App.—Houston [14th Dist.] 1997, no writ)
- Arrow Marble, LLC v. Estate of Killion, 441 S.W.3d 702, 705, 708-09 (Tex. App.—Houston [1st Dist.] 2014, no pet.)
- Arthur Andersen & Co. v. Perry Equip. Corp., 945 S.W.2d 812, 818 (Tex. 1997)