

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
KENTUCKY, ASHLAND DIVISION

Williams v. Hall

683 F. Supp. 639 (E.D. Ky. 1988) · No. Civ. A. No. 84-149 · Decided April 5, 1988

SUMMARY

The court considered defendants' motions for summary judgment in consolidated wrongful-discharge actions brought by former Ashland Oil officers who alleged that the company engaged in bribery and related racketeering activity. The court held that plaintiffs could pursue civil claims under the RICO conspiracy provision, 18 U.S.C. § 1962(d), if they proved that their discharges were overt acts in furtherance of the conspiracy and caused them injury, even if the discharges were not themselves predicate acts. The motions for summary judgment on the RICO claims were denied.

CASE DETAILS

COURT	United States District Court for the Eastern District of Kentucky, Ashland Division
WRITING FOR THE COURT	William O. Bertelsman
JURISDICTION	Kentucky
DECIDED	April 5, 1988
DOCKET	Civ. A. No. 84-149
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment on consolidated wrongful-discharge actions asserting civil RICO, state-law, and 42 U.S.C. § 1985 claims. The opinion addresses only the RICO issue.
STANDARD OF REVIEW	Summary judgment is appropriate only where the record shows no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. For purposes of the motions, the court presumed plaintiffs could prove their factual allegations and viewed the evidence in the light most favorable to them.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the Sixth Circuit and elsewhere.

PARTIES

Harry D. Williams, Bill E. McKay, Jr. v. John R. Hall, Ashland Oil, Inc., Robert T. McCowan, Richard W. Spears, Orin E. Atkins, Charles J. Queenan, Jr.

TOPICS

employment law

wrongful termination

summary judgment

civil procedure

statutory interpretation

PRACTICE AREAS

RICO

employment law

wrongful discharge

civil procedure

QUESTIONS PRESENTED

1. Whether plaintiffs had standing to bring civil RICO claims under 18 U.S.C. §§ 1962(a) and (c) when their alleged injury from discharge was indirect rather than directly caused by predicate racketeering acts.
2. Whether a plaintiff who proves a conspiracy to violate RICO under 18 U.S.C. § 1962(d) may recover under § 1964(c) for injury caused by overt acts committed in furtherance of the conspiracy, even when those overt acts are not themselves statutory predicate acts.

HOLDINGS

1. A plaintiff who proves a conspiracy to violate 18 U.S.C. § 1962(a) or (c) may recover under 18 U.S.C. § 1964(c) by showing injury caused by any overt act committed pursuant to or in furtherance of the conspiracy; the injury-causing overt act need not itself be a RICO predicate act.

KEY QUOTATIONS

“This court now holds that a plaintiff who has proven a § 1962(d) conspiracy to violate § 1962(a) or (c) has standing to recover under § 1964(c) if he can show injury from any overt acts done pursuant to the conspiracy.” (683 F. Supp. at 643)

“Thus in order for a plaintiff to have a private cause of action under 18 U.S.C. § 1962(d), there must at the very least be one or more overt acts causing injury to the plaintiff or his business or property under 18 U.S.C. § 1964(c).” (683 F. Supp. at 644)

FACTUAL BACKGROUND

Williams and McKay were former officers of Ashland Oil. They alleged that Ashland and other defendants operated the company’s procurement activities partly through disguised bribes to Middle Eastern officials, accompanied by mail fraud, wire fraud, Travel Act violations, securities fraud, and concealment efforts. Plaintiffs alleged that they refused to participate in the illegal conduct and its cover-up and were discharged and discredited as part of the alleged conspiracy.

PROCEDURAL HISTORY

Harry D. Williams and Bill E. McKay, Jr., former Ashland Oil officers, brought consolidated actions alleging that they were discharged after refusing to participate in or conceal illegal bribery and related misconduct. After discovery, defendants moved for summary judgment, arguing principally that plaintiffs lacked RICO standing because their injuries were not caused directly by predicate racketeering acts. The court denied summary judgment on the RICO claims, concluding that plaintiffs could establish standing through injury caused by overt acts in furtherance of a § 1962(d) conspiracy.

DISPOSITION

other

CASES CITED

- Morast v. Lance, 807 F.2d 926 (11th Cir. 1987)
- Nodine v. Textron, Inc., 819 F.2d 347 (1st Cir. 1987)
- Komm v. McFliker, 662 F. Supp. 924 (W.D. Mo. 1987)
- Callan v. State Chemical Mfg. Co., 584 F. Supp. 619 (E.D. Pa. 1984)
- Grantham & Mann, Inc. v. American Safety Products, Inc., 831 F.2d 596, 606 (6th Cir. 1987)
- Haroco, Inc. v. American National Bank & Trust Co., 747 F.2d 384, 398 (7th Cir. 1984)
- Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 105 S. Ct. 3275, 3285-3286, 87 L. Ed. 2d 346 (1985)
- Halberstam v. Welch, 705 F.2d 472, 477, 481, 487 (D.C. Cir. 1983)
- Pacific Telephone and Telegraph Co. v. MCI Telecommunications Corp., 649 F.2d 1315, 1319 (9th Cir. 1981)
- Rose v. Arkansas Valley Environmental & Utility Authority, 562 F. Supp. 1180, 1200 (W.D. Mo. 1983)
- Rose Hall Ltd. v. Chase Manhattan Overseas Bank, 494 F. Supp. 1139, 1160 (D. Del. 1980)
- Medallion TV Enterprises, Inc. v. SelecTV of California, Inc., 627 F. Supp. 1290, 1298, 1300-1301 (C.D. Cal. 1986), aff'd, 833 F.2d 1360 (9th Cir. 1987)
- Hooks v. Hooks, 771 F.2d 935 (6th Cir. 1985)
- United States v. Excellair, Inc., 637 F. Supp. 1377, 1389 (D. Colo. 1986)
- Davidson v. Simmons, 203 Neb. 804, 280 N.W.2d 645, 649 (1979)