

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Pierce v. San Diego Unified Port District

340 F. App'x 351 (9th Cir. 2009) · Decided April 22, 2009

SUMMARY

The Ninth Circuit affirmed summary judgment for the San Diego Unified Port District on claims arising from the seizure and destruction of the vessel Castle. The court held that the Port had authority under applicable ordinances to seize and destroy the vessel, that the due process and negligence claims failed, and that the Port was entitled to impound-related costs on its counterclaim. The disposition was designated nonprecedential under Ninth Circuit Rule 36-3.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Per curiam; Ezra; Hall; Pregerson
JURISDICTION	Federal
DECIDED	April 22, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Pierce and Morgan appealed the district court's grants of summary judgment in favor of the San Diego Unified Port District on their due process and negligence claims and on the Port's counterclaim for impound-related costs.
STANDARD OF REVIEW	De novo review of a district court's grant of summary judgment.
PRECEDENTIAL VALUE	Nonprecedential memorandum disposition
PARTIES	Kathleen Pierce, Matthew Morgan v. San Diego Unified Port District

TOPICS

- summary judgment
- due process
- negligence
- municipal law
- civil procedure

PRACTICE AREAS

- civil procedure
- constitutional law
- torts
- municipal law
- remedies

QUESTIONS PRESENTED

1. Whether the appellants presented sufficient evidence to create a genuine dispute of material fact concerning the former Port Director's authority to authorize the Castle to rest at the location from which it was seized.
2. Whether the Port was required to seek an injunction to enforce Unified Port District Code section 4.35.
3. Whether California Harbor and Navigation Code sections 504, 522, or 526 applied to the seizure and destruction of the Castle.
4. Whether the Port owed a mandatory duty supporting the appellants' negligence claim.
5. Whether the district court properly granted the Port's counterclaim for impound-related costs.

HOLDINGS

1. Summary judgment was proper because the appellants did not present sufficient evidence to create a genuine issue of material fact regarding the former Port Director's authority to allow and authorize the Castle to rest at the seizure location.
2. The Port was not required to seek an injunction because Unified Port District Code section 8.25 was in effect when the Castle was seized and did not require injunctive relief.
3. Those provisions did not apply to the Castle's seizure because sections 522 and 526 concern abandoned vessels without a watchman, while the Castle was not impounded as abandoned and had a watchman present.
4. The Port had authority under Unified Port District Code section 8.25(a)(4) to seize and destroy the Castle.
5. The negligence claim failed because the appellants identified no statute imposing a mandatory duty on the Port.
6. Because the impoundment was lawful, the district court properly granted the Port's counterclaim and awarded impound-related costs.

KEY QUOTATIONS

“Pursuant to UPD section 8.25(a)(4), the Port had the authority to seize and destroy the Castle because it had attempted to locate the registered owner but was unable to do so due to her own negligence in failing to update her address” (353)

“This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.” (353)

FACTUAL BACKGROUND

The Port seized and destroyed a vessel known as the Castle. The Castle was registered with the California Department of Motor Vehicles, and James Morgan, the designated watchman, was present during the seizure. The registered owner had failed to update her address, the Port was unable to locate her, and the Port stored the vessel for approximately six months, well beyond the required thirty-day period, without Pierce, Morgan, or the watchman attempting to obtain or contest the impoundment.

PROCEDURAL HISTORY

The district court granted summary judgment to the Port on the appellants' due process and negligence claims and on the Port's counterclaim. The Ninth Circuit reviewed the summary judgment rulings de novo and affirmed.

DISPOSITION

affirmed

CASES CITED

- Golden Gate Restaurant Ass'n v. City and County of San Francisco, 512 F.3d 1112, 1116 (9th Cir. 2008)
- Aguilera v. Baca, 510 F.3d 1161, 1165-67 (9th Cir. 2007)

OPINION

Pierce v. San Diego Unified Port District 340 F. App'x 351

PER CURIAM.

MEMORANDUM **

Because the parties are well aware of the facts of this case, those facts will not be repeated here. Kathleen Pierce (“Pierce”) and Matthew Morgan (“Morgan”) appeal from the district court’s grant of summary judgment in favor of the San Diego Unified Port District (the “Port”) on their due process claim and their negligence claim, which stemmed from the seizure and destruction of a vessel known as the Castle. Pierce and Morgan also appeal from the grant of summary judgment in favor of the Port on the Port’s counterclaim. We affirm. This Court reviews a district court’s grant of summary judgment de novo. *Golden Gate Restaurant Ass’n v. City and County of San Francisco*, 512 F.3d 1112, 1116 (9th Cir.2008) (citing *Aguilera v. Baca*, 510 F.3d 1161, 1165-67 (9th Cir.2007)). Pierce and Morgan’s due process claim fails as a matter of law. Pierce and Morgan have not presented sufficient evidence to create a genuine issue of material fact of whether the former Port Director Don Nay had the authority to allow and authorized the Castle to rest in the location from which it was seized. In addition, the Port was not required to seek an injunction in order to enforce a violation of Unified Port District Code (“UPD”) section 4.35 because UPD section 8.25 was in existence at the time of the seizure of the Castle, and section 8.25 did not require the Port to seek an injunction. Although a report issued by the Port implied that an injunction was the only means of enforcement for section 4.35, the report does not supercede or replace the ordinances that were in effect and applicable at the time of the seizure. UPD Code 8.25(a)(5) states that California’s Harbor and Navigation Code 500 et seq. applies to vessels that are registered with the Department of Motor Vehicles (“DMV”). The Castle was registered with the DMV. However, section 522 of the Harbor and Navigation Code does not apply to the factual circumstances in this case because it pertains only to vessels that have been abandoned and were without a watchman. See Cal. Harb. & Nav. *353Code § 522. Likewise, section 526 applies

only to abandoned vessels. See Cal. Harb. & Nav.Code § 526. The Castle, however, was not impounded for being abandoned, and it had a watchman, James Morgan, who was present during the seizure. Section 504 of the Harbor and Navigation Code, known as the Boaters Lien Law and referred to in sections 522 and 526, does not apply because Pierce and Morgan have not established that this case falls within the ambit of sections 522 or 526 in the first instance. Pursuant to UPD section 8.25(a)(4), the Port had the authority to seize and destroy the Castle because it had attempted to locate the registered owner but was unable to do so due to her own negligence in failing to update her address, Pierce and Morgan's designated watchman, James Morgan, was aware of the seizure and was informed via letter that the owner could claim the Castle. Although James Morgan denies receiving this letter, the Port stored the Castle well beyond the thirty days required, and neither Pierce and Morgan nor their watchman made any attempts to obtain the Castle or otherwise contest its impoundment during the approximately six months that it was held. Pierce and Morgan's negligence claim fails because, as noted by the district court, they cite no statute that imposed a mandatory duty on the Port. Finally, because the impoundment was lawful, the district court did not err in granting the Port's counterclaim and awarding impound related costs. AFFIRMED. This disposition is not appropriate for publication and is not precedent except as provided by 9 th Cir. R. 36-3.