

SUPREME COURT OF MICHIGAN

Lash v. City of Traverse City, 479 Mich. 180

735 N.W.2d 628 (2007) · No. No. 131632 (Calendar No. 3) · Decided July 18, 2007

SUMMARY

The Michigan Supreme Court held that the 20-mile distance permitted for public-employee residency requirements under MCL 15.602(2) must be measured in a straight line from the employee’s residence to the nearest boundary of the public employer. Although Traverse City’s residency requirement violated the statute, the Court held that the statute did not authorize a private cause of action for money damages against the governmental entity. The Court affirmed in part, reversed in part, and remanded.

CASE DETAILS

COURT	Supreme Court of Michigan
WRITING FOR THE COURT	Young, J.; Taylor, C.J.; Corrigan, J.; Markman, J.; Cavanagh, J.; Weaver, J.; Kelly, J.
JURISDICTION	Michigan
DECIDED	July 18, 2007
DOCKET	No. 131632 (Calendar No. 3)
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The City appealed by leave from a published Michigan Court of Appeals decision that held the residency distance had to be measured radially and that a private cause of action for damages was available. The Michigan Supreme Court reviewed the statutory interpretation and private-remedy issues after the trial court had granted the City summary disposition.
STANDARD OF REVIEW	Statutory interpretation and the grant or denial of summary disposition are reviewed de novo.
PRECEDENTIAL VALUE	Published precedential Michigan Supreme Court opinion
PARTIES	City of Traverse City v. Joseph Lash

TOPICS

- statutory interpretation
- municipal law
- employment law
- remedies
- appellate procedure

PRACTICE AREAS

statutory interpretation

municipal law

employment law

remedies

appellate procedure

QUESTIONS PRESENTED

1. Whether the 20-mile distance permitted by MCL 15.602(2) must be measured by straight-line radial miles or by road miles.
2. Whether Traverse City's residency requirement violated MCL 15.602(2).
3. Whether MCL 15.602 creates or permits an implied private cause of action for monetary damages against a governmental entity.

HOLDINGS

1. The 20-mile distance permitted by MCL 15.602(2) must be measured in a straight line between the employee's place of residence and the nearest boundary of the public employer, not by the shortest route of public travel.
2. Traverse City's requirement that an employee reside within 15 radial miles or 20 road miles of the nearest city limit violated MCL 15.602(2).
3. MCL 15.602 does not create or permit an implied private cause of action for money damages against a governmental entity absent express legislative authorization.

KEY QUOTATIONS

"We therefore hold that, where a public employer requires an employee to reside 20 miles from the employer's nearest boundary as permitted by MCL 15.602(2), this distance is properly measured in a straight line between the employee's place of residence and the nearest boundary of the public employer." (479 Mich. at 191)

"We hold that the 20-mile distance permitted in MCL 15.602(2) is to be measured in radial miles between the nearest boundary of the public employer and the employee's place of residence." (479 Mich. at 197)

"However, we also hold that plaintiff may not maintain a private cause of action for money damages for violation of the statute because nothing in the statute creates such a cause of action." (479 Mich. at 197)

FACTUAL BACKGROUND

Joseph Lash, a Flint police sergeant, applied to become a patrol officer for Traverse City. The City's hiring materials required applicants to reside within 15 radial miles or 20 road miles of the nearest city limit. Lash's property was within 20 radial miles but 23 road miles from the City boundary, so the City rescinded his conditional employment offer after he declined to satisfy the residency requirement. He sued for monetary damages, alleging that the residency requirement violated MCL 15.602.

PROCEDURAL HISTORY

Lash applied for a patrol-officer position with Traverse City but was denied employment because his residence was 23 road miles, although within 20 radial miles, of the City's nearest boundary. The trial court granted the

City summary disposition, holding that the statute permitted road-mile measurement but also that a private cause of action existed. The Court of Appeals affirmed in part, reversed in part, and remanded. The Michigan Supreme Court affirmed in part, reversed in part, and remanded for further proceedings consistent with its opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the trial court for further proceedings consistent with the opinion, including recognition that the residency requirement violated MCL 15.602(2) but that plaintiff could not maintain a private damages action against the City.

CASES CITED

- Lash v. Traverse City, 271 Mich. App. 207, 720 N.W.2d 760 (2006)
- Jenkins v. Patel, 471 Mich. 158, 684 N.W.2d 346 (2004)
- Maiden v. Rozwood, 461 Mich. 109, 597 N.W.2d 817 (1999)
- Koontz v. Ameritech Services, Inc., 466 Mich. 304, 645 N.W.2d 34 (2002)
- People v. Derror, 475 Mich. 316, 715 N.W.2d 822 (2006)
- Kroger Co. v. Liquor Control Commission, 366 Mich. 481, 115 N.W.2d 377 (1962)
- Helder v. Sruba, 462 Mich. 92, 611 N.W.2d 309 (2000)
- Robertson v. DaimlerChrysler Corp., 465 Mich. 732, 641 N.W.2d 567 (2002)
- Mudel v. Great Atlantic & Pacific Tea Co., 462 Mich. 691, 614 N.W.2d 607 (2000)
- Detroit Trust Co. v. Granger, 278 Mich. 152, 270 N.W. 239 (1936)
- Burke v. Chief of Police of Newton, 374 Mass. 450, 373 N.E.2d 949 (1978)
- Pompey v. General Motors Corp., 385 Mich. 537, 189 N.W.2d 243 (1971)
- Gardner v. Wood, 429 Mich. 290, 414 N.W.2d 706 (1987)
- Mack v. Detroit, 467 Mich. 186, 649 N.W.2d 47 (2002)
- People v. Anstey, 476 Mich. 436, 719 N.W.2d 579 (2006)
- Office Planning Group, Inc. v. Baraga-Houghton-Keweenaw Child Development Board, 472 Mich. 479, 697 N.W.2d 871 (2005)
- Grand Traverse County v. Michigan, 450 Mich. 457, 538 N.W.2d 1 (1995)
- White v. Chrysler Corp., 421 Mich. 192, 364 N.W.2d 619 (1984)
- Sun Valley Foods Co. v. Ward, 460 Mich. 230, 596 N.W.2d 119 (1999)
- Omne Financial, Inc. v. Shacks, Inc., 460 Mich. 305, 596 N.W.2d 591 (1999)
- Michigan Coalition of State Employee Unions v. Civil Service Commission, 465 Mich. 212, 634 N.W.2d 692 (2001)
- Updegraff v. Attorney General, 298 Mich. 48, 298 N.W. 400 (1941)

- *Finlayson v. West Bloomfield Township*, 320 Mich. 350, 31 N.W.2d 80 (1948)
- *Hanson v. Mecosta County Road Commissioners*, 465 Mich. 492, 638 N.W.2d 396 (2002)

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