

SUPREME COURT OF MONTANA

Saucier ex rel. Mallory v. McDonald's Restaurants of Montana, Inc., 2008 MT 63

179 P.3d 481, 342 Mont. 29 (2008) · No. DA 06-0244 · Decided February 26, 2008

SUMMARY

The Montana Supreme Court reviewed summary judgment rulings involving tort and sex- and disability-discrimination claims arising from a restaurant manager's sexual relationship with an intellectually disabled employee. The court considered whether the Montana Human Rights Act exclusively preempted the employee's tort claims and whether McDonald's established an affirmative defense to the discrimination claims. The court affirmed in part and reversed and remanded in part.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Patricia O. Cotter; Karla M. Gray; James C. Nelson; John Warner; W. William Leaphart; Brian Morris; Jim Rice
JURISDICTION	Montana
DECIDED	February 26, 2008
DOCKET	DA 06-0244
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from orders granting defendants summary judgment on the plaintiff's tort claims and granting McDonald's summary judgment on the plaintiff's gender- and disability-discrimination claims. The plaintiff appealed.
STANDARD OF REVIEW	De novo review of summary judgment, applying the same Rule 56 analysis as the district court; evidence and reasonable inferences are viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	Published opinion; binding Montana Supreme Court precedent.
PARTIES	Patricia A. Saucier, by Mary Mallory, her limited guardian v. McDonald's Restaurants of Montana, Inc., McDonald's Corporation, Alex Keeton

TOPICS

employment discrimination

sexual harassment

disability discrimination

summary judgment

civil procedure

PRACTICE AREAS

employment law

civil rights

torts

disability discrimination

civil procedure

QUESTIONS PRESENTED

1. Whether the Montana Human Rights Act's exclusivity provision barred Saucier's tort claims arising from alleged non-consensual sexual conduct by her supervisor.
2. Whether disputed evidence concerning Saucier's mental capacity to consent created a genuine issue of material fact precluding summary judgment on the tort claims.
3. Whether McDonald's was entitled to summary judgment on Saucier's gender- and disability-discrimination claims.

HOLDINGS

1. Allegations of non-consensual sex sound in tort rather than employment discrimination and therefore are not barred by the Montana Human Rights Act's exclusive-remedy provision.
2. Summary judgment was improper because conflicting evidence created a genuine issue of material fact regarding Saucier's capacity to consent to sexual conduct with Keeton.
3. McDonald's was entitled to summary judgment on the discrimination claims because the same allegations were determined to sound in tort, and the MHRA does not permit simultaneous pursuit of a discrimination claim in district court based on those allegations.
4. Respondeat superior is not an independent tort cause of action; it is an agency doctrine attributing one person's acts to another.

KEY QUOTATIONS

"Simply put, nothing in the statutory scheme or our precedent supports the notion that non-consensual sex falls within the MHRA's definition of discrimination." (179 P.3d 496-497)

"Simply put, allegations of non-consensual sex sound in tort and not in discrimination." (179 P.3d 497)

"The point is that for purposes of summary judgment analysis, there is a genuine issue of material fact regarding Saucier's ability to effectively consent, precluding summary disposition of this issue." (179 P.3d 496)

FACTUAL BACKGROUND

Patricia Saucier, an intellectually disabled woman, worked part-time at a McDonald's restaurant under manager Alex Keeton. Keeton, who knew of Saucier's disability and controlled aspects of her work schedule, engaged in a sexual relationship with her, including sexual intercourse after work-related cash deposits and conduct at his home. Saucier alleged that her disability prevented her from effectively consenting and that McDonald's

negligently failed to protect or supervise her. After the relationship ended and McDonald's learned of it, McDonald's terminated Keeton.

PROCEDURAL HISTORY

The plaintiff first pursued discrimination allegations before the Montana Human Rights Bureau, which dismissed the complaint after finding the relationship consensual and advised that the claims could be pursued in district court. In the subsequent district-court action, the court granted Keeton and McDonald's summary judgment on the tort claims, granted McDonald's summary judgment on the discrimination claims, and denied Keeton summary judgment on the discrimination claims. Keeton then stipulated to a \$500,000 judgment on the remaining discrimination claims. The Montana Supreme Court affirmed the judgment for McDonald's on the discrimination claims, reversed summary judgment for Keeton and McDonald's on the tort claims, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must conduct further proceedings on Saucier's tort claims against Keeton and McDonald's, including the merits of the battery and other tort theories and the application of respondeat superior. The summary judgment on the discrimination claims against McDonald's remains affirmed.

CASES CITED

- LaTray v. City of Havre, 2000 MT 119, 299 Mont. 449, 999 P.2d 1010
- Toombs v. Getter Trucking, Inc., 256 Mont. 282, 846 P.2d 265 (1993)
- Harrison v. Chance, 244 Mont. 215, 797 P.2d 200 (1990)
- Bruner v. Yellowstone County, 272 Mont. 261, 900 P.2d 901 (1995)
- Arthur v. Pierre Ltd., 2004 MT 303, 323 Mont. 453, 100 P.3d 987
- Shields v. Helena School District No. 1, 284 Mont. 138, 943 P.2d 999 (1997)
- Vettel-Becker v. Deaconess Medical Center, 2008 MT 51, 341 Mont. 435, 177 P.3d 1034
- Schultz v. Stillwater Mining Co., 277 Mont. 154, 920 P.2d 486 (1996)
- Estate of Bovey, 2006 MT 46, 331 Mont. 254, 132 P.3d 510
- Vainio v. Brookshire, 258 Mont. 273, 852 P.2d 596 (1993)
- Kornec v. Mike Horse Mining & Milling Co., 120 Mont. 1, 180 P.2d 252 (1947)
- Delaware v. K-Decorators, Inc., 1999 MT 13, 293 Mont. 97, 973 P.2d 818
- State v. Branam, 2006 MT 300, 334 Mont. 457, 148 P.3d 635
- Romero v. J & J Tire, 238 Mont. 146, 777 P.2d 292 (1989)
- Kloss v. Edward D. Jones & Co., 2002 MT 129, 310 Mont. 123, 54 P.3d 1
- Wadsworth v. State, 275 Mont. 287, 911 P.2d 1165 (1996)

- Tonack v. Montana Bank of Billings, 258 Mont. 247, 854 P.2d 326 (1993)
- Fode v. Farmers Ins., 221 Mont. 282, 719 P.2d 414 (1986)
- Jacobellis v. Ohio, 378 U.S. 184, 84 S. Ct. 1676, 12 L. Ed. 2d 793 (1964)

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