

SUPREME COURT OF NEW MEXICO

Nava v. City of Santa Fe

103 P.3d 571, 136 N.M. 647 (2004) · No. No. 28,220 · Decided October 13, 2004

SUMMARY

The Supreme Court of New Mexico affirmed a judgment for Deanna Nava on her New Mexico Human Rights Act hostile work environment sexual-harassment claim against the City of Santa Fe. The court held that a mixed-motive jury instruction was proper and that substantial evidence supported findings that the harassment was based on sex and sufficiently severe or pervasive. It also upheld remittitur of damages, denial of post-judgment interest against the municipality, and the district court's attorney-fee award.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Minzner, Justice; Petra Jimenez Maes, Chief Justice; Patricio M. Serna, Justice; Richard C. Bosson, Justice; Edward L. Chavez, Justice
JURISDICTION	New Mexico
DECIDED	October 13, 2004
DOCKET	No. 28,220
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal by the City of Santa Fe and cross-appeal by Deanna Nava from a judgment entered after a jury verdict in Nava's favor on a New Mexico Human Rights Act hostile-work-environment sexual-harassment claim.
STANDARD OF REVIEW	The court reviewed the jury's verdict for substantial evidence, resolving disputed facts and reasonable inferences in favor of the prevailing party and declining to reweigh conflicting evidence. Remittitur was reviewed under the applicable analytical framework requiring express reasons establishing passion, prejudice, partiality, sympathy, undue influence, or another corrupt cause or motive. Attorney's-fee awards were reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	City of Santa Fe v. Deanna Nava

TOPICS

sexual harassment hostile work environment employment discrimination damages appellate procedure

PRACTICE AREAS

employment law civil rights municipal law remedies appellate procedure

QUESTIONS PRESENTED

1. Whether the district court's mixed-motive jury instruction improperly permitted the jury to find liability if sex was merely a motivating factor rather than the sole or primary cause of the harassment.
2. Whether substantial evidence supported the jury's findings that the harassment occurred because of Nava's sex and was sufficiently severe or pervasive to create a hostile work environment.
3. Whether the district court properly ordered remittitur of the jury's \$285,000 damages award to \$90,250.
4. Whether Nava was entitled to post-judgment interest against the City under the New Mexico Human Rights Act.
5. Whether the district court abused its discretion by setting Nava's statutory attorney's fees using a \$200 hourly rate rather than the requested \$230 rate.

HOLDINGS

1. The mixed-motive instruction was not erroneous because a plaintiff need only establish that sex was a motivating factor in the challenged employment treatment; sex need not be the sole or primary motivation.
2. Substantial evidence supported the jury's finding that Gallegos's harassment of Nava was because of her sex.
3. Substantial evidence supported the jury's finding that the harassment was sufficiently severe or pervasive to alter the terms and conditions of Nava's employment.
4. The district court properly ordered remittitur because the \$285,000 jury award was unsupported by the evidence and plainly manifested passion or prejudice rather than reason or justice.
5. Nava was not entitled to post-judgment interest because the NMHRA did not expressly waive the State's immunity from post-judgment interest.
6. The district court did not abuse its discretion by awarding attorney's fees based on a \$200 hourly rate rather than the requested \$230 rate.

KEY QUOTATIONS

“sexual harassment is actionable under a hostile work environment theory when the offensive conduct becomes so severe and pervasive that it alters the conditions of employment in such a manner that the workplace is transformed into a hostile and abusive environment for the employee.” (at 574)

“The employee must only establish that the adverse employment action was motivated in part by an illegitimate factor, such as sex.” (at 575)

“Each incident to which Plaintiff testified, when viewed in isolation, may not have been severe enough to support a hostile work environment claim. However, in their aggregate, the incidents reflect the severity and pervasiveness of the harassment.” (at 576)

“In this case, Plaintiff is not entitled to post-judgment interest for her claim under the NMHRA because Section 28-1-13(D) does not explicitly waive the State's immunity from post-judgment interest.” (at 578)

FACTUAL BACKGROUND

Deanna Nava had been employed as a Santa Fe police officer since 1993 and remained under the supervision of Sergeant Clarence Gallegos for approximately nineteen months. She testified that Gallegos subjected her to nearly daily sex-based harassment, including closer monitoring than male officers, disparate work assignments and privileges, following her to monitor bathroom breaks, assigning her rape calls despite other officers being closer, and throwing a file folder at her. Other officers and department employees corroborated that Gallegos monitored and treated female officers differently from male officers. The jury awarded Nava \$285,000, which the district court reduced to \$90,250 by remittitur.

PROCEDURAL HISTORY

Nava sued the City under the New Mexico Human Rights Act, alleging that her supervisor subjected her to sex-based harassment and that the City knew of the harassment and failed to take remedial action. A jury found for Nava and awarded \$285,000. The district court denied the City's motion for a new trial, reduced the award by remittitur to \$90,250, denied post-judgment interest, and awarded attorney's fees at a reduced hourly rate. The City appealed and Nava cross-appealed; the New Mexico Supreme Court affirmed on all issues.

DISPOSITION

affirmed

CASES CITED

- *Ocana v. American Furniture Co.*, 2004-NMSC-018, 135 N.M. 539, 91 P.3d 58
- *Smith v. FDC Corp.*, 109 N.M. 514, 787 P.2d 433 (1990)
- *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986)
- *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)
- *Penry v. Federal Home Loan Bank of Topeka*, 155 F.3d 1257 (10th Cir. 1998)
- *Toltec International, Inc. v. Village of Ruidoso*, 95 N.M. 82, 619 P.2d 186 (1980)
- *Harris v. Forklift Systems, Inc.*, 510 U.S. 17 (1993)
- *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)
- *Allsup's Convenience Stores, Inc. v. North River Insurance Co.*, 1999-NMSC-006, 127 N.M. 1, 976 P.2d 1
- *Gandy v. Wal-Mart Stores, Inc.*, 117 N.M. 441, 872 P.2d 859 (1994)
- *Wulf v. City of Wichita*, 883 F.2d 842 (10th Cir. 1989)
- *Hetzel v. County of Prince William*, 89 F.3d 169 (4th Cir. 1996)

- Coates v. Wal-Mart Stores, Inc., 1999-NMSC-013, 127 N.M. 47, 976 P.2d 999
- Gonzales v. New Mexico Department of Health, 2000-NMSC-029, 129 N.M. 586, 11 P.3d 550
- Weststar Mortgage Corp. v. Jackson, 2002-NMCA-009, 131 N.M. 493, 39 P.3d 710, rev'd on other grounds, 2003-NMSC-002, 133 N.M. 114, 61 P.3d 823
- Trujillo v. City of Albuquerque, 1998-NMSC-031, 125 N.M. 721, 965 P.2d 305
- Lucero v. Aladdin Beauty Colleges, 117 N.M. 269, 871 P.2d 365 (1994)

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