

SUPREME COURT OF THE STATE OF MONTANA

Miller v. Great Falls Athletic Club, LLC, d/b/a Peak Health and Wellness Center

2010 MT 171N (Mont. 2010) · No. DA 10-0086 · Decided August 10, 2010

SUMMARY

The Montana Supreme Court affirmed summary judgment for Great Falls Athletic Club in a privacy-invasion action arising from the videotaping of Douglas Miller while exercising at the facility. The Court held that Miller lacked an objectively reasonable expectation of privacy in the open exercise area and could not maintain a constitutional privacy claim against a private entity. The memorandum decision was designated nonprecedential, and a specially concurring justice questioned whether gym members may retain privacy interests in such circumstances.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Chief Justice Mike McGrath; Justice W. William Leaphart; Justice Michael E. Wheat; Justice Brian Morris
JURISDICTION	Montana
DECIDED	August 10, 2010
DOCKET	DA 10-0086
DISPOSITION	affirmed
PROCEDURAL POSTURE	Miller appealed an order granting the defendant summary judgment on his common-law and constitutional privacy claims arising from videotaping at a fitness facility.
STANDARD OF REVIEW	Summary judgment orders are reviewed de novo under the same Rule 56 analysis applied by the district court. Summary judgment is proper when there is a complete absence of genuine issues of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision; not citable as precedent under the Montana Supreme Court’s internal operating rules.
PARTIES	Douglas Miller v. Great Falls Athletic Club, LLC, d/b/a Peak Health and Wellness Center

TOPICS

invasion of privacy

summary judgment

standard of review

constitutional law

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the district court properly granted summary judgment to the fitness facility on Miller's common-law invasion-of-privacy claim.
2. Whether Miller could maintain a constitutional privacy claim against a private fitness facility.
3. Whether Miller had an objectively reasonable expectation of privacy while exercising in the facility's open exercise area.

HOLDINGS

1. Miller failed to invoke a constitutional privacy claim because he sued a private entity rather than the State.
2. Miller could not establish an objectively reasonable expectation of privacy while exercising in the facility's open exercise area, where the area was visible from the entrance, numerous other members were present, and posted notice disclosed video surveillance.
3. Summary judgment for Great Falls Athletic Club was proper because Miller failed to show a genuine issue of material fact concerning the objective reasonableness of his privacy expectation and failed to establish a viable privacy cause of action.

KEY QUOTATIONS

“This Court has defined the common law cause of action for invasion of privacy as a “wrongful intrusion into one’s private activities in such a manner as to outrage or cause mental suffering, shame or humiliation to a person of ordinary sensibilities.”” (¶ 7)

“Under these facts, Miller cannot demonstrate that his expectation of privacy was objectively reasonable. Thus, Miller cannot set forth sufficient facts to support either a common law or constitutional cause of action for violation of his privacy rights.” (¶ 8)

FACTUAL BACKGROUND

Douglas Miller, who had filed a workers' compensation claim asserting permanent total disability after a 1998 industrial accident, exercised on an elliptical machine at the defendant's membership fitness facility. With the facility's permission, a licensed private investigator observed and videotaped Miller in an open exercise area on two consecutive days while approximately 75 other members were present. The facility had a video-surveillance system covering the exercise area and posted notice of that system at its public entrance. Miller alleged that the videotaping violated his privacy rights and that review of the videotape by his doctors reduced his workers' compensation settlement.

PROCEDURAL HISTORY

The Eighth Judicial District Court of Cascade County granted summary judgment to Great Falls Athletic Club, LLC, concluding that no genuine issue of material fact existed and that Miller had not established a viable privacy cause of action. The Montana Supreme Court affirmed in a memorandum decision that was designated noncitable under the court's internal operating rules.

DISPOSITION

affirmed

CASES CITED

- Saucier v. McDonald's Rests. of Mont., Inc., 2008 MT 63, 342 Mont. 29, 179 P.3d 481
- Deserly v. Dept. of Corrections, 2000 MT 42, 298 Mont. 328, 995 P.2d 972
- Rucinsky v. Hentchel, 266 Mont. 502, 881 P.2d 616 (1994)
- Sistok v. Northwestern Tel. Sys., Inc., 189 Mont. 82, 615 P.2d 176 (1980)
- State v. Long, 216 Mont. 65, 700 P.2d 153 (1985)
- Lincoln Co. Commn. v. Nixon, 1998 MT 298, 292 Mont. 42, 968 P.2d 1141
- State v. Goetz, 2008 MT 296, 345 Mont. 421, 191 P.3d 489

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