

SUPREME COURT OF OHIO

State ex rel. Arce v. Industrial Commission

105 Ohio St. 3d 90 (Ohio 2005) · Decided March 2, 2005

SUMMARY

The Ohio Supreme Court overruled *State ex rel. Ohio Mushroom Co. v. Industrial Commission* to clarify that workers’ compensation safety-code applicability is generally governed by the law in effect on the date of injury. The court held that the Smith cabbage-coring machine was an installation subject to the safety code’s grandfather clause and affirmed denial of the claimant’s VSSR award.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per curiam; Moyer, C.J.; Resnick, J.; Pfeifer, J.; Lundberg Stratton, J.; O'Connor, J.; O'Donnell, J.; Lanzinger, J.
JURISDICTION	Ohio
DECIDED	March 2, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a writ of mandamus by the Court of Appeals for Franklin County. The claimant challenged the Industrial Commission's denial of a violation-of-specific-safety-requirement award.
STANDARD OF REVIEW	The Supreme Court reviewed whether the Industrial Commission abused its discretion. Interpretation of a specific safety requirement is within the Commission's sound discretion; a VSSR provision is strictly construed, with reasonable doubts construed against applicability to the employer.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Ohio; overrules <i>State ex rel. Ohio Mushroom Co. v. Industrial Commission</i> .
PARTIES	Blanca A. Arce v. Hirzel Canning Company, Inc., Industrial Commission of Ohio

TOPICS

- workers compensation
- administrative law
- judicial review of agency action
- statutory interpretation

PRACTICE AREAS

workers compensation

administrative law

employment law

QUESTIONS PRESENTED

1. Whether State ex rel. Ohio Mushroom Co. v. Industrial Commission should be overruled insofar as it treated the date a machine was placed into service, rather than the date of injury, as controlling for safety-code applicability.
2. Whether the Smith cabbage-coring machine was an installation or construction under Ohio Adm.Code 4123:1-5-01(A), making the grandfather clause applicable.
3. Whether the Industrial Commission abused its discretion in denying Arce's VSSR application.

HOLDINGS

1. State ex rel. Ohio Mushroom Co. v. Industrial Commission is overruled. Generally, workers' compensation rights and the applicable safety requirements are governed by the law in effect on the date of injury, subject to the grandfather-clause exception for installations or constructions.
2. The Industrial Commission did not abuse its discretion in finding that the Smith cabbage-coring machine was an installation under Ohio Adm.Code 4123:1-5-01(A).
3. The Commission did not abuse its discretion in denying Arce's VSSR application because the coring machine was an installation subject to the grandfather clause and did not violate any applicable provision of Safety Code IC-5.

KEY QUOTATIONS

*"code applicability * * * is controlled by the date the machine in question was placed into service, not by the date of injury." (105 Ohio St. 3d at 90)*

"The time has now come to end any further controversy by overruling Ohio Mushroom." (105 Ohio St. 3d at 93)

"The commission did not, therefore, abuse its discretion in finding that the coring machine was an installation and hence subject to the grandfather clause." (105 Ohio St. 3d at 93)

FACTUAL BACKGROUND

Hirzel Canning used a large Smith cabbage-coring machine that was placed into service in 1969 or 1970. On October 26, 1999, Blanca Arce was injured by the machine's coring knife. After her workers' compensation claim was allowed, she sought a VSSR award under the then-current safety code, but the Commission found that the machine was an installation subject to the code's grandfather clause and that the applicable Safety Code IC-5 contained no violation.

PROCEDURAL HISTORY

After her workers' compensation claim was allowed, Arce sought additional compensation alleging that Hirzel violated Ohio Adm.Code 4121:1-5-11(D)(13), which required exposed power knives to be guarded. A staff

hearing officer and the Industrial Commission denied the application, determining that the safety code in effect when the coring machine was placed into service governed and that the older Safety Code IC-5 contained no applicable knife-machine requirement. The Franklin County Court of Appeals denied Arce's mandamus petition, and the Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Ohio Mushroom Co. v. Industrial Commission, 47 Ohio St. 3d 59, 547 N.E.2d 973 (Ohio 1989)
- State ex rel. Colliver v. Industrial Commission, 84 Ohio St. 3d 476, 705 N.E.2d 349 (Ohio 1999)
- State ex rel. McVay v. Industrial Commission, 86 Ohio St. 3d 587, 589, 715 N.E.2d 1166 (Ohio 1999)
- State ex rel. Sanchez v. Industrial Commission, 18 Ohio St. 3d 46, 18 OBR 81, 479 N.E.2d 864 (Ohio 1985)
- State ex rel. Cunningham v. Industrial Commission, 30 Ohio St. 3d 73, 30 OBR 176, 506 N.E.2d 1179 (Ohio 1987)
- State ex rel. Commercial Lovelace Motor Freight, Inc. v. Lancaster, 22 Ohio St. 3d 191, 22 OBR 275, 489 N.E.2d 288 (Ohio 1986)
- State ex rel. Harris v. Industrial Commission, 12 Ohio St. 3d 152, 12 OBR 223, 465 N.E.2d 1286 (Ohio 1984)
- State ex rel. Burton v. Industrial Commission, 46 Ohio St. 3d 170, 172, 545 N.E.2d 1216 (Ohio 1989)