

SUPREME COURT OF COLORADO

Elder v. Williams

2020 CO 88 (2020) · No. 19SC1009 · Decided December 21, 2020

SUMMARY

The Colorado Supreme Court considered whether claims for compensatory relief and front pay under the Colorado Anti-Discrimination Act are barred by the Colorado Governmental Immunity Act. The court held that CADA claims do not lie in tort or could lie in tort, that the term “the state” includes political subdivisions for purposes of compensatory damages, and that front pay is equitable rather than compensatory. The court affirmed the judgment below.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Gabriel
JURISDICTION	Colorado
DECIDED	December 21, 2020
DOCKET	19SC1009
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Colorado Supreme Court granted certiorari to review a published Colorado Court of Appeals decision affirming in part and reversing in part the denial of the Sheriff's Office's motion to dismiss Williams's CADA claims.
STANDARD OF REVIEW	De novo review of questions of statutory interpretation.
PRECEDENTIAL VALUE	Published, precedential Colorado Supreme Court opinion decided en banc.
PARTIES	Bill Elder, as Sheriff of El Paso County, Colorado, El Paso County Sheriff's Office v. Timothy Williams

TOPICS

employment discrimination retaliation age discrimination sovereign immunity statutory interpretation

PRACTICE AREAS

employment law civil rights governmental immunity statutory interpretation remedies

QUESTIONS PRESENTED

1. Whether claims against a governmental entity for compensatory relief under CADA are claims for injuries that lie in tort or could lie in tort and are therefore barred by the CGIA.
2. Whether the phrase "the state" in CADA section 24-34-405(8)(g) includes state agencies and political subdivisions.
3. Whether front pay under CADA is compensatory in nature and lies in tort or could lie in tort for purposes of the CGIA.

HOLDINGS

1. Claims for compensatory relief under CADA do not and could not lie in tort for purposes of the CGIA because CADA creates statutory duties directed at eliminating workplace discrimination rather than compensating individuals for common-law tort injuries. Public entities therefore are not immune from such CADA claims under the CGIA.
2. The phrase "the state" in section 24-34-405(8)(g) includes the State of Colorado, state agencies, and political subdivisions. Accordingly, political subdivisions are not immune from CADA compensatory-damages claims based on intentional unfair or discriminatory employment practices.
3. Front pay under CADA is equitable rather than compensatory in nature, and claims seeking front pay do not and could not lie in tort for purposes of the CGIA.

KEY QUOTATIONS

"For these reasons, we conclude that CADA claims derive from statutory duties designed to implement the broad policy of eliminating intentional discriminatory or unfair employment practices, rather than to compensate an individual for personal injuries. Accordingly, CADA claims do not and could not lie in tort, and Williams's claims under CADA are not barred by the CGIA." (¶ 27)

"Accordingly, we conclude that "the state," as used in subsection 24-34-405(8)(g), includes both the state of Colorado and any state agency or political subdivision." (¶ 48)

"Indeed, the Sheriff's Office appears to have conceded this fact when, in its opening brief, it described equitable relief under CADA as including front pay." (¶ 51)

FACTUAL BACKGROUND

Timothy Williams worked for the El Paso County Sheriff's Office from 2002 and ultimately became a lieutenant. After Williams participated in an investigation that apparently displeased Sheriff Elder and disclosed that he expected to retire within five years, Elder criticized Williams, questioned his job security, and later demoted him to senior deputy. Williams retired the next day to avoid adverse effects on his retirement benefits and was allegedly replaced by a younger employee. He later alleged that the Sheriff's Office publicly shamed him in responding to an open-records request after he filed discrimination charges.

PROCEDURAL HISTORY

Williams filed age-discrimination and retaliation charges with the Colorado Civil Rights Division and the EEOC, then sued the Sheriff's Office in El Paso County District Court under CADA, seeking front pay and compensatory damages. The district court denied the Sheriff's Office's motion to dismiss, holding that the claims were not barred by the CGIA. The Colorado Court of Appeals affirmed in part and reversed in part, concluding that front-pay and retaliation-based compensatory-damages claims could proceed but that CADA barred compensatory damages for age discrimination. The Colorado Supreme Court affirmed the court of appeals' judgment.

DISPOSITION

affirmed

CASES CITED

- Dep't of Revenue v. Agilent Techs., Inc., 2019 CO 41, 441 P.3d 1012
- Colo. Oil & Gas Conservation Comm'n v. Martinez, 2019 CO 3, 433 P.3d 22
- Smokebrush Found. v. City of Colo. Springs, 2018 CO 10, 410 P.3d 1236
- Robinson v. Colo. State Lottery Div., 179 P.3d 998 (Colo. 2008)
- Colo. Dep't of Transp. v. Brown Grp. Retail, Inc., 182 P.3d 687 (Colo. 2008)
- City of Colo. Springs v. Conners, 993 P.2d 1167 (Colo. 2000)
- Colo. C.R. Comm'n ex rel. Ramos v. Regents of the Univ. of Colo., 759 P.2d 726 (Colo. 1988)
- Brooke v. Rest. Servs., Inc., 906 P.2d 66 (Colo. 1995)
- Agnello v. Adolph Coors Co., 689 P.2d 1162 (Colo. App. 1984)
- Gudenkauf v. Stauffer Commc'ns, Inc., 158 F.3d 1074 (10th Cir. 1998)
- Ferrer v. Okbamicael, 2017 CO 14M, 390 P.3d 836
- Wagner v. Dan Unfug Motors, Inc., 529 P.2d 656 (Colo. App. 1974)
- Price Waterhouse v. Hopkins, 490 U.S. 228 (1989)
- Griggs v. Duke Power Co., 401 U.S. 424 (1971)
- Baker v. Runyon, 114 F.3d 668 (7th Cir. 1997)
- Univ. of Tex. Sw. Med. Ctr. v. Nassar, 570 U.S. 338 (2013)
- Gross v. FBL Fin. Servs., Inc., 557 U.S. 167 (2009)

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