

SUPREME COURT OF ALABAMA

Johnson v. City of Mobile

195 So. 3d 903 (Ala. 2015) · Decided September 30, 2015

SUMMARY

Barbara Johnson appealed an Alabama circuit court judgment for the City of Mobile on her Title VII and Americans with Disabilities Act retaliation claims. The opinion addresses the sufficiency of Johnson’s evidence, the circuit court’s handling of summary judgment and post-trial motions, and awards of costs and attorney fees to the City. The excerpt includes the court’s discussion of the EEOC determination, alleged workplace retaliation, and the standards governing review of ore tenus evidence.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Parker, Justice; Stuart; Bolin; Main; Wise; Bryan; Moore, Chief Justice; Murdock; Shaw
JURISDICTION	Alabama
DECIDED	September 30, 2015
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Employee appealed a judgment after a bench trial in favor of the City on Title VII and ADA retaliation claims, the denial of her motions for a continuance and new trial, and an award of attorney fees to the City.
STANDARD OF REVIEW	Findings based on ore tenus evidence are presumed correct and will not be reversed unless palpably erroneous or manifestly unjust; legal conclusions and incorrect applications of law receive no such presumption. The denial of continuances and postjudgment motions is reviewed for abuse of discretion. An award of Title VII attorney fees is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Alabama
PARTIES	Barbara Johnson v. City of Mobile

TOPICS

retaliation

title vii

ada / disability

remedies

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PRACTICE AREAS

employment law

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QUESTIONS PRESENTED

1. Whether the circuit court's judgment for the City on Johnson's Title VII and ADA retaliation claims was palpably erroneous or manifestly unjust.
2. Whether Johnson established an adverse employment action and causation sufficient to support retaliation claims under Title VII or the ADA.
3. Whether the circuit court abused its discretion by denying Johnson's motion for a continuance and motion for a new trial.
4. Whether the City was entitled to attorney fees under Title VII because Johnson's claims were frivolous, unreasonable, or groundless.
5. Whether the circuit court adequately explained and calculated the amount of attorney fees awarded to the City.

HOLDINGS

1. The circuit court properly entered judgment for the City because Johnson failed to demonstrate that the City subjected her to a materially adverse employment action causally connected to protected activity, and she failed to show that the City's stated legitimate reasons were pretextual.
2. An EEOC determination letter is not binding on a state trial court adjudicating a subsequent civil retaliation action.
3. The circuit court did not abuse its discretion in denying Johnson's motion for a continuance or her motion for a new trial, and the appellate court would not consider unsupported arguments.
4. The City was entitled to attorney fees because Johnson's claims were frivolous, unreasonable, or groundless under the Christiansburg standard.
5. The circuit court's award of \$116,892.50 in attorney fees had to be reversed because the order did not provide the analysis and calculations necessary for meaningful appellate review.

KEY QUOTATIONS

“Instead, the civil litigation at the district court level clearly takes on the character of a trial de novo, completely separate from the actions of the EEOC.” (916-917)

“In determining whether a suit is frivolous, ‘a [trial] court must focus on the question whether the case is so lacking in arguable merit as to be groundless or without foundation rather than whether the claim was ultimately successful.’” (925)

“The [trial] court’s order on attorney’s fees must allow meaningful review — the [trial] court must articulate the decisions it made, give principled reasons for those decisions, and show its calculation.” (927-928)

FACTUAL BACKGROUND

Johnson, an African-American woman over 40, worked for the City and had filed multiple EEOC complaints and lawsuits alleging employment discrimination. After toe surgery, she received paid leave, was permitted to wear physician-prescribed white shoes despite the City's dress code, and was later reprimanded and given an unsatisfactory performance rating based on asserted attendance and performance problems; the rating was eventually changed to satisfactory. Johnson alleged that these events, closer scrutiny, an attempt to verify medical information, and a supervisor's threatening conduct constituted retaliation for her protected activity. She remained employed and compensated, was not demoted, and was offered a lateral transfer.

PROCEDURAL HISTORY

Johnson sued the City of Mobile in the Mobile Circuit Court, alleging retaliation for filing EEOC charges and prior discrimination lawsuits. The circuit court entered judgment for the City after a bench trial, denied Johnson's postjudgment motions, awarded the City \$2,384.32 in costs and \$116,892.50 in attorney fees, and denied reconsideration. The Alabama Supreme Court affirmed the merits judgment, the denial of postjudgment motions, and the City's entitlement to attorney fees, but reversed the amount of the fee award and remanded for a reasoned lodestar analysis.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must enter a new order awarding attorney fees that sets forth the reasons supporting the award and explains how the amount was calculated under the applicable lodestar and fee-award precedent.

CASES CITED

- Water Works & Sanitary Sewer Board v. Parks, 977 So. 2d 440, 443 (Ala. 2007)
- Fadalla v. Fadalla, 929 So. 2d 429, 433 (Ala. 2005)
- Philpot v. State, 843 So. 2d 122, 125 (Ala. 2002)
- Wattman v. Rowell, 913 So. 2d 1083, 1086 (Ala. 2005)
- Dennis v. Dobbs, 474 So. 2d 77, 79 (Ala. 1985)
- Retail Developers of Alabama, LLC v. East Gadsden Golf Club, Inc., 985 So. 2d 924, 929 (Ala. 2007)
- Moore v. Devine, 767 F.2d 1541, 1551 (11th Cir. 1985), modified on other grounds, 780 F.2d 1559 (11th Cir. 1986)
- Blizzard v. Fielding, 572 F.2d 13 (1st Cir. 1978)
- Smith v. Universal Services, Inc., 454 F.2d 154, 157 (5th Cir. 1972)
- McClure v. Mexia Independent School District, 750 F.2d 396, 400 (5th Cir. 1985)
- Johnson v. Booker T. Washington Broad. Serv., Inc., 234 F.3d 501, 507 (11th Cir. 2000)
- Shannon v. BellSouth Telecommunications, Inc., 292 F.3d 712, 715-17 (11th Cir. 2002)
- Saffold v. Special Counsel, Inc., 147 F. App'x 949, 951 (11th Cir. 2005)
- Davis v. Town of Lake Park, Florida, 245 F.3d 1232, 1238-39 (11th Cir. 2001)

- Burlington Industries, Inc. v. Ellerth, 524 U.S. 742, 761 (1998)
- Stewart v. Happy Herman's Cheshire Bridge, Inc., 117 F.3d 1278, 1287 (11th Cir. 1997)
- Ex parte AIG Baker Orange Beach Wharf, L.L.C., 12 So. 3d 1204, 1208-09 (Ala. 2009)
- Horn v. Fadal Machining Centers, LLC, 972 So. 2d 63, 80 (Ala. 2007)
- University of South Alabama v. Progressive Insurance Co., 904 So. 2d 1242, 1247-48 (Ala. 2004)
- Spradlin v. Spradlin, 601 So. 2d 76, 79 (Ala. 1992)
- Jimmy Day Plumbing & Heating, Inc. v. Smith, 964 So. 2d 1, 9 (Ala. 2007)
- State Farm Mutual Automobile Insurance Co. v. Motley, 909 So. 2d 806, 822 (Ala. 2005)
- Ex parte Showers, 812 So. 2d 277, 281 (Ala. 2001)
- Butler v. Town of Argo, 871 So. 2d 1, 20 (Ala. 2003)
- Dykes v. Lane Trucking, Inc., 652 So. 2d 248, 251 (Ala. 1994)
- Hale v. Larry Latham Auctioneers, Inc., 607 So. 2d 154, 155 (Ala. 1992)
- Thomas v. Southeast Alabama Sickle Cell Association, Inc., 581 So. 2d 845 (Ala. 1991)
- Steele v. Gill, 283 Ala. 364, 369, 217 So. 2d 75, 80 (1968)
- Turner v. Sungard Business Systems, Inc., 91 F.3d 1418, 1422 (11th Cir. 1996)
- Shepherd v. Summit Management Co., 794 So. 2d 1110, 1115-16 (Ala. Civ. App. 2000)
- Bonder v. Mobile Energy Services Co., 246 F.3d 1303, 1305 (11th Cir. 2001)
- Sayers v. Stewart Sleep Center, Inc., 140 F.3d 1351, 1354 (11th Cir. 1998)
- Jerelds v. City of Orlando, 194 F. Supp. 2d 1305, 1311 (M.D. Fla. 2002)
- Quintana v. Jenne, 414 F.3d 1306, 1310 (11th Cir. 2005)
- Lawver v. Hillcrest Hospice, Inc., 300 F. App'x 768, 774 (11th Cir. 2008)
- Perry v. Orange County, 341 F. Supp. 2d 1197, 1207-08 (M.D. Fla. 2004)
- Norman v. Housing Authority of the City of Montgomery, 836 F.2d 1292, 1298-1304 (11th Cir. 1988)
- Camden I Condominium Association, Inc. v. Dunkle, 946 F.2d 768, 772 (11th Cir. 1991)
- City of Burlington v. Dague, 505 U.S. 557, 559-62 (1992)
- Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 478 U.S. 546, 565 (1986)
- Duckworth v. Whisenant, 97 F.3d 1393, 1396-98 (11th Cir. 1996)
- Loranger v. Stierheim, 10 F.3d 776, 781 (11th Cir. 1994)
- Varner v. Century Finance Co., 738 F.2d 1143, 1149 (11th Cir. 1984)
- Adams v. Mathis, 752 F.2d 553, 554 (11th Cir. 1985)
- Beavers v. County of Walker, 645 So. 2d 1365, 1372 (Ala. 1994)
- Andrews v. Merritt Oil Co., 612 So. 2d 409 (Ala. 1992)

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