

OHIO COURT OF APPEALS, EIGHTH APPELLATE DISTRICT

McCauley v. PDS Dental Laboratories, Inc.

2008-Ohio-2813 (Ohio Ct. App. 2008) · No. 90086 · Decided May 29, 2008

SUMMARY

The Ohio Court of Appeals affirmed summary judgment for PDS Dental Laboratories, Ronald Germano, and Michael Lerch on claims involving constructive discharge in violation of public policy, intentional infliction of emotional distress, respondeat superior, and civil conspiracy. The court held that the alleged constructive discharge did not jeopardize Ohio's public policy favoring unemployment compensation, the alleged workplace conduct was not extreme and outrageous, and no underlying unlawful act supported civil conspiracy. It also upheld summary judgment for Lerch, a nonmoving party, because the fully briefed grounds applied equally to him.

CASE DETAILS

COURT	Ohio Court of Appeals, Eighth Appellate District
WRITING FOR THE COURT	Kenneth A. Rocco; Colleen Conway Cooney; Frank D. Celebrezze, Jr.
JURISDICTION	Ohio
DECIDED	May 29, 2008
DOCKET	90086
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a common pleas court order granting summary judgment to defendants on claims for wrongful discharge in violation of public policy, intentional infliction of emotional distress, respondeat superior, and civil conspiracy. The appellate court reviewed the summary judgment ruling de novo.
STANDARD OF REVIEW	De novo review of summary judgment; summary judgment is proper when no genuine issue of material fact exists, the moving party is entitled to judgment as a matter of law, and reasonable minds viewing the evidence most favorably to the nonmoving party can reach only a conclusion adverse to that party.
PRECEDENTIAL VALUE	unpublished
PARTIES	Gail S. McCauley v. PDS Dental Laboratories, Inc., Ronald N. Germano, Michael Lerch

TOPICS

wrongful termination

employment law

intentional infliction of emotional distress

summary judgment

appellate procedure

PRACTICE AREAS

employment law

torts

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether McCauley established a wrongful-discharge claim in violation of the public policy favoring unemployment compensation.
2. Whether the alleged workplace conduct was sufficiently extreme and outrageous to support intentional infliction of emotional distress or respondeat superior liability.
3. Whether McCauley could maintain a civil conspiracy claim absent evidence of an underlying unlawful act.
4. Whether the trial court could grant summary judgment to Lerch, who had not moved for summary judgment, on grounds fully applicable to the moving defendants.

HOLDINGS

1. McCauley could not establish wrongful discharge in violation of the public policy favoring unemployment compensation because her alleged constructive discharge did not jeopardize or subvert that policy; she received unemployment benefits, and a constructive discharge would constitute just cause for leaving employment.
2. The alleged yelling, work-related criticism, differential treatment, and efforts to improve McCauley's production did not constitute extreme and outrageous conduct as a matter of law, so PDS was not liable for intentional infliction of emotional distress through respondeat superior.
3. McCauley's civil conspiracy claim failed because she did not establish an underlying unlawful act by PDS or Germano.
4. The trial court did not err by granting summary judgment to Lerch, who had not moved for summary judgment, because the grounds supporting judgment for PDS and Germano applied equally to Lerch and the relevant issues had been fully briefed.

KEY QUOTATIONS

“Summary judgment is appropriate if there is no genuine issue as to any material fact, the moving party is entitled to judgment as a matter of law, and, viewing the evidence in the light most favorable to the nonmoving party, reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion is made.” (¶ 20)

“An employer's constructive discharge of an employee does not jeopardize the public policy favoring unemployment compensation, nor was the public policy subverted in this case.” (¶ 25)

FACTUAL BACKGROUND

McCauley worked for PDS as a dental technician and was transferred to the denture department after medical leave. After Sharon Taylor became her supervisor, McCauley alleged that Taylor frequently yelled at her, treated her differently from other employees, denied or limited assistance, and told her to quit if she could not perform the work. McCauley complained to PDS owners and managers, but resigned effective May 31, 2003, claiming that the conduct constructively discharged her and caused weight loss and depression. She acknowledged that she was not meeting production expectations and received unemployment benefits after leaving.

PROCEDURAL HISTORY

McCauley filed suit against PDS, Germano, Lerch, and Taylor. Taylor was never served within one year, and the action against her was never commenced; McCauley voluntarily dismissed her breach-of-contract claim. PDS and Germano moved for summary judgment, which the common pleas court granted on all remaining claims, including claims against Lerch even though Lerch had not moved for summary judgment. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Mosley v. 131 Foods, Inc., Cuyahoga App. No. 87696, 2006-Ohio-5719, ¶¶ 4-5
- Blanton v. Alley, Pike App. No. 02CA685, 2003-Ohio-2594, ¶¶ 28-29
- Grafton v. Ohio Edison Co., 77 Ohio St.3d 102, 105, 1996-Ohio-336
- Collins v. Rizkana, 73 Ohio St.3d 65, 69-70, 1995-Ohio-135
- Scarnati v. Ohio Dept. of Mental Health (Aug. 11, 1994), Franklin App. No. 94API01-102
- Pyle v. Pyle, 11 Ohio App.3d 31, 34 (1983)
- Brewer v. Cleveland Bd. of Edn., 122 Ohio App.3d 378, 386 (1997)
- Webb v. Ohio Cas. Ins. Co. (Apr. 16, 1990), Butler App. No. 89-07-109
- Kenty v. Transamerica Premium Ins. Co., 72 Ohio St.3d 415, 419 (1995)
- LeFort v. Century 21-Maitland Realty Co., 32 Ohio St.3d 121, 126 (1987)
- Gosden v. Louis, 116 Ohio App.3d 195, 219 (1996)
- Burns v. Rice, 157 Ohio App.3d 620, 2004-Ohio-3228, ¶ 53
- Marshall v. Aaron, 15 Ohio St.3d 48, syllabus (1984)
- State ex rel. Cuyahoga Cty. Hosp. v. Bur. of Workers' Comp., 27 Ohio St.3d 25, 28 (1986)
- State ex rel. Newell v. Cuyahoga Cty. Court of Common Pleas, 77 Ohio St.3d 269, 1997-Ohio-76