

SUPREME COURT OF NORTH DAKOTA

Robinson v. N. Dakota Workforce Safety & Ins.

Robinson, 2019 ND 201 (N.D. 2019) · No. 20180383 · Decided July 30, 2019

SUMMARY

The North Dakota Supreme Court reviewed whether service of a Workforce Safety and Insurance administrative order on Robinson’s attorney was sufficient to establish personal jurisdiction over Robinson. The court held that the administrative law judge failed to make necessary factual findings concerning the attorney’s authority to accept service, reversed the district court judgment, and remanded to the agency for further proceedings. The court did not reach Robinson’s due process argument.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Lisa Fair McEvers, Justice; Lisa Fair McEvers; Jon J. Jensen; Daniel J. Crothers; Jerod E. Tufte; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	July 30, 2019
DOCKET	20180383
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Robinson appealed the district court judgment affirming a Workforce Safety and Insurance administrative order that found him personally liable for unpaid workers' compensation premiums, penalties, interest, and costs owed by Dalton Logistics, Inc.
STANDARD OF REVIEW	The Supreme Court reviews the agency's decision in the same manner as the district court. It does not independently find facts or substitute its judgment for the agency's, defers to the agency's credibility determinations, reviews legal conclusions de novo, and reviews factual findings under the clearly erroneous standard. Under N.D.C.C. § 28-32-46, the agency's order must be reversed or modified if it is not in accordance with law, violates constitutional rights, lacks required factual support, or is inadequately explained.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jack Robinson v. North Dakota Workforce Safety and Insurance

TOPICS

service of process personal jurisdiction agency adjudication judicial review of agency action
administrative law

PRACTICE AREAS

administrative law workers compensation civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether an administrative order served under N.D.C.C. § 65-04-32(3) is service of process requiring service under N.D.R.Civ.P. 4.
2. Whether service of the administrative order on Robinson's attorney was sufficient to establish personal jurisdiction over Robinson.
3. Whether the ALJ erred by denying Robinson's motion to dismiss without making a factual finding regarding the attorney's authority to accept service.
4. Whether the Court should decide Robinson's due process challenge.

HOLDINGS

1. An administrative order issued to initiate an administrative proceeding is not a writ or summons in a judicial proceeding and therefore is not 'process' requiring service under N.D.R.Civ.P. 4. The statutory requirement to serve the administrative order on the parties by certified mail provides the applicable equivalent of service of process for the agency proceeding.
2. The agency could not determine whether service on Robinson's attorney established personal jurisdiction without resolving the disputed factual issue of whether the attorney represented Robinson or was authorized to accept service on his behalf.
3. The Court did not reach the due process issue because resolving it would have been advisory after the jurisdictional error required remand.

KEY QUOTATIONS

“The term “process” as defined under N.D.C.C. § 1-01-49(12) is a term of art that by definition applies only to judicial proceedings.” (¶ 9)

“The administrative order is not a writ or summons in a judicial proceeding, and does not require service of “process” under N.D.R.Civ.P. 4.” (¶ 10)

“We hold the ALJ failed to make any findings of fact to support its conclusion that Robinson’s motion to dismiss be denied as a matter of law.” (¶ 17)

FACTUAL BACKGROUND

WSI determined that Jack Robinson, a vice president of Dalton Logistics, Inc., was personally liable for Dalton's unpaid workers' compensation premiums, penalties, interest, and costs. After an earlier district court action was

dismissed without prejudice, WSI issued a new administrative order and served it by certified mail on Robinson's former district court attorney. Robinson maintained that the attorney was not authorized to accept service for the new proceeding, while WSI relied on the attorney's status as counsel of record. The administrative record contained disputed evidence regarding the attorney's representation and authority, but the ALJ made no factual finding resolving that dispute.

PROCEDURAL HISTORY

WSI issued an administrative order finding Robinson personally liable and served the order by certified mail on the attorney who had represented him in prior district court proceedings. Robinson moved to dismiss for lack of personal jurisdiction, arguing he had not been properly served; after an administrative hearing, the ALJ denied the motion and affirmed the order. The district court affirmed, and the North Dakota Supreme Court reversed and remanded to the agency because the ALJ failed to make a necessary factual finding concerning the attorney's authority to accept service.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to WSI for further proceedings consistent with the opinion, including making the necessary factual finding regarding whether Robinson's attorney represented him at the relevant time or was authorized to accept service of the administrative order on his behalf.

CASES CITED

- Haynes v. Dir., Dep't of Transp., 2014 ND 161, 851 N.W.2d 172
- Beylund v. Levi, 2017 ND 30, 889 N.W.2d 907
- Bergum v. N.D. Workforce Safety & Ins., 2009 ND 52, 764 N.W.2d 178
- Schwind v. Dir., N.D. Dep't of Transp., 462 N.W.2d 147 (N.D. 1990)
- State ex rel. Pub. Serv. Comm'n v. No. Pac. Ry. Co., 75 N.W.2d 129 (N.D. 1956)
- Gessner v. City of Minot, 1998 ND 157, 583 N.W.2d 90
- Olsrud v. Bismarck-Mandan Orchestral Ass'n, 2007 ND 91, 733 N.W.2d 256
- Principal Residential Mortg., Inc. v. Nash, 2000 ND 21, 606 N.W.2d 120
- Spirit Prop. Mgmt. v. Vondell, 2017 ND 158, 897 N.W.2d 334
- Workforce Safety & Ins. v. Auck, 2010 ND 126, 785 N.W.2d 186
- Evans v. Backes, 437 N.W.2d 848 (N.D. 1989)
- Gray v. Berg, 2015 ND 203, 868 N.W.2d 378