

SUPREME COURT OF CALIFORNIA

Murray v. Alaska Airlines, Inc.

50 Cal. 4th 860 (Cal. 2010) · No. S162570 · Decided August 23, 2010

SUMMARY

The California Supreme Court addressed whether factual findings in a federal agency's final, nonappealable AIR 21 whistleblower decision could receive collateral-estoppel effect in subsequent litigation. The court held that, under the circumstances, the findings could be given issue-preclusive effect because Murray had an adequate opportunity to litigate through a formal de novo administrative hearing and judicial review but forfeited those opportunities.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Baxter, J.; Chin, J.; Moreno, J.; Corrigan, J.; Werdegar, J.; George, C.J.; Kennard, J.
JURISDICTION	California
DECIDED	August 23, 2010
DOCKET	S162570
DISPOSITION	other
PROCEDURAL POSTURE	The Ninth Circuit requested the California Supreme Court to decide whether factual findings in a federal agency's AIR 21 whistleblower investigation, which became a final nonappealable order after the complainant did not request a hearing or pursue review, could receive collateral-estoppel effect in a subsequent California wrongful-termination action. The federal district court had granted summary judgment to Alaska Airlines based on collateral estoppel.
STANDARD OF REVIEW	De novo review of the legal question certified by the Ninth Circuit concerning the collateral-estoppel effect of federal administrative findings under California law.
PRECEDENTIAL VALUE	Published California Supreme Court opinion; binding California precedent on the certified state-law question under the particular AIR 21 facts and procedural circumstances.
PARTIES	Kevin Murray v. Alaska Airlines, Inc.

TOPICS

whistleblower retaliation res judicata administrative procedure act civil procedure

PRACTICE AREAS

civil procedure administrative law employment law whistleblower retaliation

QUESTIONS PRESENTED

1. Whether factual findings concerning causation in a federal agency's AIR 21 investigative decision that became final and nonappealable by operation of law may receive collateral-estoppel effect in a subsequent California wrongful-termination action.
2. Whether Murray's failure to request the available de novo administrative hearing and judicial review constituted a forfeiture that permitted application of judicial exhaustion and issue preclusion despite the absence of a formal hearing before the Secretary's investigative findings.
3. Whether applying collateral estoppel under these circumstances serves the policies underlying issue preclusion, including judicial economy, avoidance of inconsistent judgments, and protection against repetitive litigation.

HOLDINGS

1. Under the particular facts and procedural posture of the case, the Secretary of Labor's factual finding that Murray failed to establish a causal connection between his protected activity and Alaska's adverse employment action could be given collateral-estoppel effect in Murray's subsequent California wrongful-termination action.
2. For purposes of collateral estoppel, the causation issue was actually litigated because it was properly raised by Murray's AIR 21 complaint and supporting materials and was determined by the Secretary, even though Murray did not participate in a formal evidentiary hearing.

KEY QUOTATIONS

"We conclude that under the particular facts and procedural posture of this case, Murray may be precluded from relitigating the factual issue of causation against Alaska in his state court wrongful termination action, removed to federal court on grounds of diversity jurisdiction." (at 877)

"Given the factual and procedural circumstances of this case as reported in the Ninth Circuit's published order, we conclude the Secretary's factual findings on the issue of causation, embodied in a final nonappealable order, should, under California law, be afforded preclusive effect in this subsequent court action between the same parties." (at 879)

FACTUAL BACKGROUND

Kevin Murray worked as a quality assurance auditor for Alaska Airlines and reported safety concerns to the Federal Aviation Administration. After an FAA investigation revealed significant air-carrier safety discrepancies, the facility where Murray worked was closed, his position was outsourced, and he was not rehired. Murray filed

an AIR 21 whistleblower complaint, but the Department of Labor investigator did not contact him or provide him an opportunity to review or rebut Alaska's evidence before finding that, although he engaged in protected activity and suffered adverse employment action, he failed to establish causation. Murray did not request the available formal hearing or judicial review, and later sued Alaska in California for wrongful termination and retaliation.

PROCEDURAL HISTORY

Murray filed an optional administrative whistleblower complaint with the United States Department of Labor under AIR 21. After an investigation, the Secretary found protected activity and adverse employment action but found no causal connection and dismissed the complaint. Murray did not object, request a de novo ALJ hearing, formally withdraw the complaint, or seek judicial review; the findings therefore became final by operation of law. He then filed a California wrongful-termination and retaliation action, which Alaska removed to federal court, where summary judgment was granted to Alaska on collateral-estoppel grounds. The Ninth Circuit requested guidance from the California Supreme Court.

DISPOSITION

other

REMAND INSTRUCTIONS

The California Supreme Court answered the Ninth Circuit's certified question in the affirmative. The opinion did not itself affirm, reverse, or remand the federal district court judgment.

CASES CITED

- *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 326, 336 n.23 (1979)
- *Murray v. Alaska Airlines, Inc.*, 522 F.3d 920, 921-923 (9th Cir. 2008)
- *Preciado v. County of Ventura*, 143 Cal. App. 3d 783, 786-787 n.2 (1982)
- *Rymer v. Hagler*, 211 Cal. App. 3d 1171, 1178-1179 (1989)
- *Astoria Federal Savings & Loan Ass'n v. Solimino*, 501 U.S. 104, 107 (1991)
- *United States v. Utah Construction Co.*, 384 U.S. 394, 419-422 (1966)
- *People v. Sims*, 32 Cal. 3d 468, 479-489 (1982)
- *French v. Rishell*, 40 Cal. 2d 477, 480-481 (1953)
- *Knickerbocker v. City of Stockton*, 199 Cal. App. 3d 235, 242 (1988)
- *McDonald v. Antelope Valley Community College District*, 45 Cal. 4th 88, 113-114 (2008)
- *Johnson v. City of Loma Linda*, *Johnson v. City of Loma Linda*, 24 Cal. 4th 61, 65, 69-76 (2000)
- *Pacific Lumber Co. v. State Water Resources Control Board*, 37 Cal. 4th 921, 944-945 (2006)
- *Teitelbaum Furs, Inc. v. Dominion Insurance Co.*, 58 Cal. 2d 601, 607 (1962)
- *Fitzgerald v. Herzer*, 78 Cal. App. 2d 127, 132 (1947)
- *Takahashi v. Board of Education*, 202 Cal. App. 3d 1464, 1467-1470, 1485 (1988)

- Fadaie v. Alaska Airlines, Inc., 293 F. Supp. 2d 1210, 1217-1220 (W.D. Wash. 2003)
- Vandenberg v. Superior Court, 21 Cal. 4th 815, 829, 833, 835 (1999)
- Eilrich v. Remas, 839 F.2d 630, 632 (9th Cir. 1988)
- Lucido v. Superior Court, 51 Cal. 3d 335, 342-343 (1990)
- Allen v. McCurry, 449 U.S. 90, 94 (1980)
- Montana v. United States, 440 U.S. 147, 153-154 (1979)
- Syufy Enterprises v. City of Oakland, 104 Cal. App. 4th 869, 878 (2002)
- State Board of Chiropractic Examiners v. Superior Court, 45 Cal. 4th 963, 975-976 (2009)
- Tice v. Bristol-Myers Squibb Co., 515 F. Supp. 2d 580, 584 (W.D. Pa. 2007)
- Turner v. Anheuser-Busch, Inc., 7 Cal. 4th 1238, 1258 (1994)
- Tameny v. Atlantic Richfield Co., 27 Cal. 3d 167 (1980)
- George Arakelian Farms, Inc. v. Agricultural Labor Relations Board, 49 Cal. 3d 1279, 1290-1291 (1989)