

SUPREME COURT OF OHIO

Collins v. Rizkana, 73 Ohio St. 3d 65

652 N.E.2d 653 (Ohio 1995) · Decided August 16, 1995

SUMMARY

The Ohio Supreme Court held that Ohio recognizes a common-law tort claim for wrongful discharge in violation of public policy based on sexual harassment or discrimination. The court concluded that Ohio statutes prohibiting sexual imposition and employment discrimination establish a clear public policy, and that the availability or inapplicability of remedies under R.C. Chapter 4112 did not preclude Collins’s claim. The court reversed the appellate decision and remanded the case for further proceedings.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Alice Robie Resnick; Cook; Douglas; Moyer; Pfeifer; Resnick; Sweeney; Wright
JURISDICTION	Ohio
DECIDED	August 16, 1995
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Collins appealed after the court of appeals rejected or disposed of her common-law wrongful-discharge claim based on alleged workplace sexual harassment and retaliation. The Supreme Court of Ohio reviewed whether the claim was legally cognizable and whether the evidence, construed in Collins's favor, created a genuine issue of material fact.
STANDARD OF REVIEW	Under Civ.R. 56(C), the evidence must be construed most strongly in favor of the nonmoving party, and summary judgment is improper when a genuine issue of material fact remains.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Ohio.
PARTIES	Alice Collins v. Dr. Rizkana

TOPICS

- wrongful termination
- sexual harassment
- employment discrimination
- employment at-will
- retaliation

PRACTICE AREAS

Employment law

Torts

Civil rights

Remedies

QUESTIONS PRESENTED

1. Whether Ohio recognizes a common-law tort claim for wrongful discharge in violation of public policy based on alleged workplace sexual harassment or discrimination.
2. Whether Ohio's public policy against sexual harassment and sex discrimination is sufficiently clear to support an exception to the employment-at-will doctrine.
3. Whether the availability or limited coverage of remedies under R.C. Chapter 4112 precludes Collins's common-law wrongful-discharge claim.
4. Whether the evidence, construed most strongly in Collins's favor, presented a genuine issue of material fact concerning the alleged harassment, retaliation, and constructive discharge.

HOLDINGS

1. Ohio recognizes a cause of action for wrongful discharge in violation of public policy based on sexual harassment or discrimination.
2. The elements of Ohio's public-policy wrongful-discharge tort are clarity, jeopardy, causation, and the absence of an overriding legitimate business justification.
3. The availability and limited coverage of remedies under R.C. Chapter 4112 did not preclude Collins from pursuing an independent common-law wrongful-discharge claim.
4. A genuine issue of material fact remained concerning whether Rizkana subjected Collins to unwanted sexual contacts and retaliated against her, resulting in constructive discharge.

KEY QUOTATIONS

“In reviewing future cases, Ohio courts may find useful the analysis of Villanova Law Professor H. Perritt, who, based on review of cases throughout the country, has described the elements of the tort as follows:” (69-70)

“We hold, therefore, that in Ohio, a cause of action may be brought for wrongful discharge in violation of public policy based on sexual harassment/discrimination.” (74)

“Since R.C. Chapter 4112 does not preempt common-law claims, we cannot interpret R.C. 4112.01(A)(2) as an intent by the General Assembly to grant small businesses in Ohio a license to sexually harass/discriminate against their employees with impunity.” (74)

FACTUAL BACKGROUND

Collins alleged that Dr. Rizkana subjected her to a series of unwanted and offensive sexual contacts. She further alleged that Rizkana retaliated against her for refusing to disclaim the occurrences, and that the retaliation resulted in her constructive discharge. The Supreme Court concluded that, when the evidence was construed in Collins's favor, a genuine issue remained as to whether the alleged conduct and retaliation occurred.

PROCEDURAL HISTORY

Collins alleged that Rizkana subjected her to unwanted and offensive sexual contacts and retaliated against her when she refused to disclaim that the conduct occurred, resulting in her constructive discharge. The court of appeals ruled against Collins. The Supreme Court of Ohio reversed and remanded for further proceedings in the trial court.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded to the trial court for further proceedings consistent with the opinion.

CASES CITED

- Phung v. Waste Management, Inc., 23 Ohio St. 3d 100, 491 N.E.2d 1114 (1986)
- Mers v. Dispatch Printing Co., 19 Ohio St. 3d 100, 483 N.E.2d 150 (1985)
- Henkel v. Educational Research Council of America, 45 Ohio St. 2d 249, 344 N.E.2d 118 (1976)
- Wagenseller v. Scottsdale Memorial Hospital, 147 Ariz. 370, 710 P.2d 1025 (1985)
- Petermann v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 396, 174 Cal. App. 2d 184, 344 P.2d 25 (1959)
- Palmateer v. International Harvester Co., 85 Ill. 2d 124, 421 N.E.2d 876 (1981)
- Greeley v. Miami Valley Maintenance Contractors, Inc., 49 Ohio St. 3d 228, 551 N.E.2d 981 (1990)
- Painter v. Graley, 70 Ohio St. 3d 377, 639 N.E.2d 51 (1994)
- Watson v. Peoples Security Life Insurance Co., 322 Md. 467, 588 A.2d 760 (1991)
- Rojo v. Kliger, 52 Cal. 3d 65, 276 Cal. Rptr. 130, 801 P.2d 373 (1990)
- Lucas v. Brown & Root, Inc., 736 F.2d 1202 (8th Cir. 1984)
- Harrison v. Edison Brothers Apparel Stores, Inc., 924 F.2d 530 (4th Cir. 1991)
- Kerans v. Porter Paint Co., 61 Ohio St. 3d 486, 575 N.E.2d 428 (1991)
- Helmick v. Cincinnati Word Processing, Inc., 45 Ohio St. 3d 131, 543 N.E.2d 1212 (1989)
- Kerrigan v. Magnum Entertainment, Inc., 804 F. Supp. 733 (D. Md. 1992)
- Holien v. Sears, Roebuck & Co., 298 Or. 76, 689 P.2d 1292 (1984)
- Drinkwalter v. Shipton Supply Co., Inc., 225 Mont. 380, 732 P.2d 1335 (1987)