

SUPREME COURT OF IDAHO

Jeffry J. Black v. Idaho State Police; Colonel G. Jerry Russell

155 Idaho 570 (2013) · No. 39822 · Decided November 27, 2013

SUMMARY

The Idaho Supreme Court affirmed summary judgment for the Idaho State Police in Jeffry Black's claim under the Idaho Protection of Public Employees Act. The court held that Black's objections to directives from the ISP director concerning fiscal, personnel, and administrative matters were not objectively reasonable reports of suspected legal violations or protected refusals under the Whistleblower Act. The court denied attorney fees to Black and awarded costs on appeal to the respondents.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	J. Jones; Chief Justice Burdick; Justice Eismann; Justice Horton; Justice Jones; Justice Pro Tem Schroeder
JURISDICTION	Idaho
DECIDED	November 27, 2013
DOCKET	39822
DISPOSITION	affirmed
PROCEDURAL POSTURE	Black appealed the district court's grant of summary judgment to the Idaho State Police and Colonel Russell in his Idaho Whistleblower Act action.
STANDARD OF REVIEW	The Supreme Court applies the same standard as the district court when reviewing summary judgment, liberally construing the record and drawing reasonable inferences in favor of the nonmoving party. Questions of law, including statutory interpretation, are reviewed freely.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jeffry J. Black v. Idaho State Police, Colonel G. Jerry Russell

TOPICS

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QUESTIONS PRESENTED

1. Whether the district court properly granted summary judgment to the Idaho State Police because Black did not engage in activity protected by the Idaho Protection of Public Employees Act.
2. Whether Black was entitled to attorney fees on appeal under Idaho Code section 6-2106(5).

HOLDINGS

1. Black did not engage in protected communication because his asserted belief that ISP or Colonel Russell had violated, or suspectedly violated, a law or rule was not objectively reasonable.
2. Black's objections and refusals were not protected because he lacked an objectively reasonable belief that Russell's directives violated a law or rule.
3. The district court properly granted summary judgment to ISP because Black failed to demonstrate protected activity under the Whistleblower Act.
4. Black was not entitled to attorney fees on appeal because he was not the prevailing party and the Court found no reason to award fees in its discretion.

KEY QUOTATIONS

“However, a subjective suspicion does not satisfy the requirements of the statute. The suspicion of illegality must be objectively reasonable.” (at 6)

“We affirm the judgment of district court. Costs on appeal are awarded to Respondents.” (at 8)

FACTUAL BACKGROUND

Jeffrey Black was the executive director of the Idaho Peace Officer Standards and Training Council, a division of the Idaho State Police. After budget, personnel, and chain-of-command disputes arose, ISP Director Colonel Jerry Russell directed Black to respond to an audit, prepare communications to POST staff, and return an ISP employee to ISP offices. Black refused or declined to comply, asserting that he answered only to POST and that Russell's directives violated Idaho statutes or administrative rules; POST ultimately confirmed Russell's authority, and Black was terminated.

PROCEDURAL HISTORY

After Black was terminated, he appealed to the Idaho Personnel Commission, where a hearing officer granted summary judgment to ISP and the Commission affirmed. Black also filed an action in district court; the district court granted summary judgment to ISP, denied reconsideration, and Black timely appealed. The Idaho Supreme Court affirmed and awarded costs on appeal to the respondents.

DISPOSITION

affirmed

CASES CITED

- Steele v. Spokesman-Review, 138 Idaho 249, 251, 61 P.3d 606, 608 (2002)
- Fields v. State, 149 Idaho 399, 400, 234 P.3d 723, 724 (2010)
- Van v. Portneuf Medical Center, 147 Idaho 552, 557-60, 212 P.3d 982, 987-90 (2009)
- Curlee v. Kootenai County Fire & Rescue, 148 Idaho 391, 394, 400, 224 P.3d 458, 461, 467 (2008)
- Smith v. Mitton, 140 Idaho 893, 898-99, 902, 104 P.3d 367, 372-73, 376 (2004)
- Patterson v. State, Department of Health and Welfare, 151 Idaho 310, 320, 256 P.3d 718, 728 (2011)
- Little v. United Technologies, Carrier Transicold Division, 103 F.3d 956 (11th Cir. 1997)

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