

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Ernest F. Jack v. The City of Wellsburg

Jack v. City of Wellsburg · No. No. 12-1420 · Decided October 18, 2013

SUMMARY

The West Virginia Supreme Court of Appeals affirmed summary judgment for the City of Wellsburg in a former employee’s challenge to his termination. The court held that the petitioner failed to present more than a scintilla of evidence showing a genuine issue of material fact regarding whether his discharge was based on poor work performance or political motives. The court also rejected his arguments concerning a contractual or property interest in continued employment and the application of summary judgment standards.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	October 18, 2013
DOCKET	No. 12-1420
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Circuit Court of Brooke County’s orders granting summary judgment to the City of Wellsburg and dismissing his claims arising from his termination.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. When a properly supported motion demonstrates no genuine issue of material fact, the nonmoving party must rehabilitate the challenged evidence, produce additional evidence creating a genuine issue for trial, or submit an affidavit explaining why further discovery is necessary under Rule 56(f).
PRECEDENTIAL VALUE	Memorandum decision under West Virginia Rule of Appellate Procedure 21; no substantial question of law and no prejudicial error found.
PARTIES	Ernest F. Jack v. The City of Wellsburg

TOPICS

summary judgment

employment law

municipal law

due process

appellate procedure

PRACTICE AREAS

employment law

municipal law

civil procedure

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether genuine issues of material fact precluded summary judgment on Jack's claims arising from his termination.
2. Whether the circuit court improperly applied the summary-judgment standard and thereby deprived Jack of his state constitutional right to a jury trial.

HOLDINGS

1. Summary judgment for the City was proper because the City submitted a properly supported motion and Jack failed to produce more than a scintilla of evidence from which a reasonable jury could find in his favor; no genuine issues of material fact required trial.
2. The circuit court properly applied the summary-judgment standard; its resolution of the case did not deprive Jack of his state constitutional right to a jury trial.

KEY QUOTATIONS

“Based upon our review of the facts of this matter and the record before this Court, we find that respondent presented a properly supported motion for summary judgment and petitioner failed to produce more than a scintilla of evidence sufficient for a jury to find in his favor.” (at 3)

“Thus, the summary judgment in favor of respondent is proper.” (at 4)

FACTUAL BACKGROUND

Ernest F. Jack worked for the City of Wellsburg from 1979 until 2009, when then-mayor and acting city manager Wayne Campbell terminated him. The City cited poor work performance and personnel-policy provisions, and the record showed years of progressive discipline, including reprimands concerning work hours, duties, abusive language toward a supervisor, and working for another municipality during scheduled City hours. Jack completed two levels of the City's post-termination grievance process and alleged that his discharge was politically motivated and related to his arrest in Ohio.

PROCEDURAL HISTORY

Jack sued the City of Wellsburg, Wayne Campbell, and Randy Fletcher after his employment was terminated. The individual defendants were dismissed under Rule 12(b)(6), and the circuit court denied the City's motion for declaratory judgment. Following discovery, the City moved for summary judgment; the circuit court granted that motion and entered a separate dismissal order. Jack appealed, and the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Eaton v. City of Parkersburg, 198 W. Va. 615, 482 S.E.2d 232 (1996)
- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Arnold v. Palmer, 224 W. Va. 495, 686 S.E.2d 725 (2009)
- Williams v. Precision Coil, Inc., 194 W. Va. 52, 459 S.E.2d 329 (1995)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252, 106 S. Ct. 2502, 2512, 91 L. Ed. 2d 202, 214 (1986)
- Adkins v. Miller, 187 W. Va. 774, 421 S.E.2d 682 (1992)
- Hanlon v. Chambers, 195 W. Va. 99, 464 S.E.2d 741 (1996)
- Dawson v. Allstate Insurance Co., 189 W. Va. 557, 433 S.E.2d 268 (1993)

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