

SUPREME COURT OF SOUTH CAROLINA

Cunningham v. Anderson County

Opinion No. 27568 (S.C. Sept. 2, 2015) · No. Appellate Case No. 2013-000678 · Decided September 2, 2015

SUMMARY

The South Carolina Supreme Court reversed the Court of Appeals' remand of Michael Cunningham's wrongful-discharge claim. The court held that Cunningham had not preserved an argument that he was an at-will employee, and it affirmed summary judgment for Anderson County on all claims.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Hearn; Justice Pleicones; Justice Kittredge; Justice Beatty; Chief Justice Toal
JURISDICTION	South Carolina
DECIDED	September 2, 2015
DOCKET	Appellate Case No. 2013-000678
DISPOSITION	reversed
PROCEDURAL POSTURE	The Supreme Court of South Carolina reviewed the Court of Appeals' reversal and remand of summary judgment on Cunningham's wrongful-discharge claim pursuant to a writ of certiorari.
STANDARD OF REVIEW	Summary judgment is reviewed under the same standard applied by the circuit court under Rule 56(c), SCRCP. Summary judgment is proper when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law; the evidence and reasonable inferences are viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion; precedential
PARTIES	Anderson County v. Michael Cunningham

TOPICS

- wrongful termination
- employment law
- breach of contract
- preservation of error
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Court of Appeals erred by reversing and remanding summary judgment on Cunningham's wrongful-discharge claim when Cunningham had not pleaded or otherwise preserved an argument that he was an at-will employee.
2. Whether a reference to *Stiles v. American General Life Insurance Co.* in a supplemental filing was sufficient to preserve an at-will employment theory.

HOLDINGS

1. Cunningham did not preserve an argument that he was an at-will employee because his complaint and litigation strategy consistently characterized his employment as governed by a definite-term contract and he never pleaded an alternative at-will theory.
2. The Court of Appeals erred by remanding the wrongful-discharge claim to allow Cunningham to argue that he was an at-will employee.
3. The circuit court's grant of summary judgment to Anderson County on Cunningham's wrongful-discharge claim was affirmed.

KEY QUOTATIONS

"We hold Cunningham is limited to the allegations in his complaint and his chosen strategy before the trial court."

"Because he has not preserved the argument he is an at-will employee, we find the court of appeals' remand erroneous."

"Accordingly, we reverse the court of appeals' remand of the case for a determination of whether Cunningham was an at-will employee, and affirm the trial court's grant of summary judgment."

FACTUAL BACKGROUND

Anderson County entered a three-year Master Employment Agreement with Michael Cunningham to serve as county administrator, with provisions addressing termination for cause and severance pay. After a newly constituted county council objected to the manner of his hiring, it offered Cunningham an expressly at-will replacement agreement, which he rejected, and later terminated him. Cunningham claimed breach of contract, wrongful discharge for refusing to engage in politically motivated unlawful conduct, and entitlement to payments under the Payment of Wages Act.

PROCEDURAL HISTORY

Cunningham sued Anderson County for breach of contract, wrongful discharge in violation of public policy, and benefits under the Payment of Wages Act. The circuit court granted summary judgment to the County on all claims. The Court of Appeals affirmed as to the contract and Payment of Wages Act claims but reversed and

remanded the wrongful-discharge claim. The Supreme Court reversed that portion of the Court of Appeals' decision and affirmed the circuit court's summary judgment.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand was ordered by the Supreme Court. The Court reversed the Court of Appeals' remand and affirmed the circuit court's grant of summary judgment for Anderson County.

CASES CITED

- *Cunningham v. Anderson County*, 402 S.C. 434, 741 S.E.2d 545 (Ct. App. 2013)
- *Dawkins v. Fields*, 354 S.C. 58, 580 S.E.2d 433 (2003)
- *Stevens & Wilkinson of S.C., Inc. v. City of Columbia*, 409 S.C. 568, 762 S.E.2d 696 (2014)
- *Evening Post Publishing Co. v. Berkeley County School District*, 392 S.C. 76, 708 S.E.2d 745 (2011)
- *Turner v. Milliman*, 392 S.C. 116, 708 S.E.2d 766 (2011)
- *Stiles v. American General Life Insurance Co.*, 335 S.C. 222, 516 S.E.2d 449 (1999)
- *Cape v. Greenville County School District*, 365 S.C. 316, 618 S.E.2d 881 (2005)
- *Prescott v. Farmers Telephone Cooperative*, 335 S.C. 330, 516 S.E.2d 923 (1999)
- *Shivers v. John H. Harland Co.*, 310 S.C. 217, 423 S.E.2d 105 (1992)