

SUPREME COURT OF THE STATE OF MONTANA

Motta v. Granite County

2011 MT 96N (2011) · No. DA 10-0589 · Decided May 4, 2011

SUMMARY

Richard Motta, a Granite County justice of the peace, challenged the reduction of the position's hours and salary, reimbursement determinations, and alleged inadequate clerk funding. The Montana Supreme Court affirmed the District Court's denial of relief, concluding that the clerk issue was moot, reimbursement was governed by statutory rates, and the position had been reduced before Motta's appointment. The Court issued the decision as a noncitable memorandum opinion and declined to consider factual-error claims because Motta had not provided a trial transcript.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Chief Justice Mike McGrath; Justice James C. Nelson; Justice Patricia Cotter; Justice Beth Baker; Justice Brian Morris
JURISDICTION	Montana
DECIDED	May 4, 2011
DOCKET	DA 10-0589
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a District Court order denying all requested relief after a bench trial.
STANDARD OF REVIEW	The court declined to review claims of factual error because Motta failed to provide a trial transcript. It reviewed the legal issues under settled Montana law.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Richard Motta v. Granite County Commissioners, Suzanne Browning, Maureen Connor, Cliff Nelson

TOPICS

- municipal law
- appellate procedure
- mootness
- statutory interpretation
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Motta's claim concerning the lack of proper funding for a court clerk was moot.
2. Whether Motta was entitled to reimbursement beyond the statutory rates for actual and necessary expenses.
3. Whether the County Commissioners were authorized to reduce the justice of the peace position's hours and salary before Motta applied for or was appointed to the position.
4. Whether the Supreme Court could review alleged factual errors when Motta failed to provide a transcript of the trial.

HOLDINGS

1. The clerk-funding claim was moot because Motta had a clerk and conceded that the Justice Court was current with its duties.
2. Motta had no legal basis for reimbursement beyond the statutory rates because Montana law limited reimbursement to actual and necessary expenses at the rates provided by statute, and he had been paid those rates.
3. The County Commissioners were statutorily authorized to appoint a replacement justice of the peace and to reduce the position's salary and hours before Motta applied for the position.
4. The Supreme Court would not address claims of factual error when the appellant failed to order or provide a transcript of the trial.

KEY QUOTATIONS

“this case is decided by memorandum opinion and shall not be cited and does not serve as precedent.” (§ 1)

“a constitutional provision prohibiting diminution of salaries during the term of office is designed to remove from lawmakers the temptation to exert control over the other branches by...threats of punishment by way of reduced salaries.” (§ 6)

FACTUAL BACKGROUND

Richard Motta was appointed part-time Granite County Justice of the Peace after the prior justice retired. Before Motta applied, the County Commissioners had reduced the position from full-time to part-time and lowered its salary. Motta later disputed the hiring of a clerk and reimbursement of expenses, and claimed that the reduced hours, pay, expenses, and clerk funding harmed him. By the time of trial, he had a clerk and conceded that the Justice Court was current with its duties.

PROCEDURAL HISTORY

Motta sued Granite County officials concerning the reduction of the justice-of-the-peace position's hours and salary, reimbursement of expenses, and funding for a court clerk. After a bench trial, the District Court denied all

requested relief, concluding that the clerk issue was moot, the reimbursement claim lacked merit, and the reduction in hours and salary was authorized by statute. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Coate v. Omholt, 203 Mont. 488, 500, 662 P.2d 591, 597 (1983)
- Giambra v. Kelsey, 2007 MT 158, ¶ 36, 338 Mont. 19, 162 P.3d 134

OPINION

PER CURIAM.

May 4 2011 DA 10-0589 IN THE SUPREME COURT OF THE STATE OF MONTANA 2011 MT 96N RICHARD MOTTA, Granite County Justice of the Peace, Plaintiff and Appellant, v. GRANITE COUNTY COMMISSIONERS, SUZANNE BROWNING, MAUREEN CONNOR and CLIFF NELSON, Defendants and Appellees. APPEAL FROM: District Court of the Third Judicial District, In and For the County of Granite, Cause No. DV 09-53 Honorable Kurt Krueger, Presiding Judge COUNSEL OF RECORD: For Appellant: Richard Motta, self-represented, Philipsburg, Montana For Appellees: Michael W. Sehestedt, MACo Legal Services, Helena, Montana Submitted on Briefs: April 13, 2011 Decided: May 4, 2011 Filed: _____ Clerk Chief Justice Mike McGrath delivered the Opinion of the Court. ¶1 Pursuant to Section I, Paragraph 3(d), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent.

Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports. ¶2 Richard Motta appeals an order of the District Court, Third Judicial District, Granite County, denying all requested relief.

We affirm. ¶3 Motta was appointed as a part-time Justice of the Peace, in Granite County, after the previous justice of the peace retired. Before Motta applied, the Granite County Commissioners reduced the position from full-time to part-time and lowered the salary accordingly. Subsequently, Motta and the County Commissioners came into conflict over the hiring of a clerk and reimbursement for expenses.

Ultimately, Motta sued, claiming that (1) his hours and pay were impermissibly reduced, (2) he was not properly compensated for expenses, and (3) he was harmed by lack of proper funding for a clerk of court. The District Court held a bench trial on August 23, 2010. ¶4 First, the District Court concluded that Motta's argument regarding a clerk of court was moot.

He admitted he currently had a clerk and further conceded that the Justice Court was current with its duties. ¶5 Second, the District Court found no merit to Motta's reimbursement argument. Both §§ 3-10-203(1) and 3-10-209, MCA, provide for reimbursement for "actual and necessary" expenses, as "provided in 2-18-501 through 2-18-503." Sections 2-18-501 through 2-18- 503, MCA, provide rates of reimbursement.

Motta was paid at these statutory rates and has 2 no legal basis to request further compensation. ¶6 Finally, the District Court concluded that the County Commissioners had not illegally reduced the hours of the Granite County Justice of the Peace.

The County Commissioners were statutorily authorized both to appoint a replacement justice of the peace and reduce the justice of the peace's salary and hours, prior to appointment. Sections 3-10-206 through 3- 10-208, MCA. Additionally, "a constitutional provision prohibiting diminution of salaries during the term of office is designed to remove from lawmakers the temptation to exert control over the other branches by...threats of punishment by way of reduced salaries." *Coate v. Omholt*, 203 Mont.

488, 500, 662 P.2d 591, 597 (1983). Such a concern is absent here, because the diminution occurred prior to Motta even applying for the position. ¶7 Motta's argument weaves between legal and factual assertions. However, the record is insufficient, because he failed to order a transcript of the trial below, and this Court will not address any claims regarding factual error.

M. R. App. P. 8(2); *Giambra v. Kelsey*, 2007 MT 158, ¶ 36, 338 Mont. 19, 162 P.3d 134. ¶8 We have determined to decide this case pursuant to Section I, Paragraph 3(d) of our Internal Operating Rules, which provides for noncitable memorandum opinions.

The issues in this case are legal and are controlled by settled Montana law, which the District Court correctly interpreted. ¶9 Affirmed. /S/ MIKE McGRATH 3 We Concur: /S/ JAMES C. NELSON /S/ PATRICIA COTTER /S/ BETH BAKER /S/ BRIAN MORRIS 4