

COURT OF APPEALS OF KENTUCKY

Benningfield v. Pettit Environmental, Inc.

183 S.W.3d 567 (Ky. Ct. App. 2005) · No. 2004-CA-001632-MR · Decided September 16, 2005

SUMMARY

The Kentucky Court of Appeals affirmed dismissal of Danny D. Benningfield’s wrongful-discharge claim and summary judgment against his intentional-infliction-of-emotional-distress claim. The court held that KRS 338.121 provides both the public policy and remedy for retaliation related to workplace-safety complaints, preempting a common-law wrongful-discharge claim. It also held that termination and resulting embarrassment did not satisfy the extreme-and-outrageous-conduct and severe-emotional-distress requirements for an IIED claim.

CASE DETAILS

COURT	Court of Appeals of Kentucky
WRITING FOR THE COURT	Barber; Johnson; Miller, Senior Judge
JURISDICTION	Kentucky
DECIDED	September 16, 2005
DOCKET	2004-CA-001632-MR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Jefferson Circuit Court dismissing Benningfield's wrongful-discharge claim and granting Pettit summary judgment on his intentional-infliction-of-emotional-distress claim.
STANDARD OF REVIEW	The dismissal ruling and summary-judgment ruling were reviewed de novo. A motion to dismiss is proper when the plaintiff would not be entitled to relief under any set of facts provable in support of the claim, with allegations liberally construed in the plaintiff's favor. Summary judgment is proper when no genuine issue of material fact exists and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Kentucky Court of Appeals opinion; precedential value is not otherwise specified in the source.
PARTIES	Danny D. Benningfield v. Pettit Environmental, Inc.

TOPICS

wrongful termination

retaliation

employment at-will

intentional infliction of emotional distress

standard of review

PRACTICE AREAS

employment law

torts

appellate procedure

QUESTIONS PRESENTED

1. Whether KRS 338.121 preempts a common-law wrongful-discharge claim based on termination for reporting alleged workplace-safety violations.
2. Whether the alleged termination constituted extreme and outrageous conduct sufficient to support an IIED claim.
3. Whether the plaintiff's alleged embarrassment constituted severe emotional distress sufficient to survive summary judgment.
4. Whether summary judgment was premature because discovery was incomplete.

HOLDINGS

1. KRS 338.121 preempts a wrongful-discharge claim based on alleged retaliation for reporting workplace-safety violations because the statute both declares the unlawful act and specifies the remedy available to an aggrieved employee.
2. Mere termination of employment, even if allegedly wrongful, does not constitute extreme and outrageous conduct sufficient to support an IIED claim.
3. Embarrassment resulting from job loss is not severe emotional distress because it is not substantially more than mere sorrow.
4. Summary judgment was proper despite incomplete discovery because the plaintiff identified no evidentiary material showing a genuine issue of material fact, and the hope that additional discovery might produce supporting evidence was insufficient.

KEY QUOTATIONS

“Where the statute both declares the unlawful act and specifies the civil remedy available to the aggrieved party, the aggrieved party is limited to the remedy provided by the statute.” (at 570-71)

“Mere termination clearly does not rise to the level of outrageous conduct required to support an IIED claim.” (at 572)

FACTUAL BACKGROUND

Benningfield worked for Pettit as an Environmental Technician and was required to complete certifications and related training. He informed Pettit that he believed he had not received training for which he was credited and reported his concerns to OSHA, which conducted an on-site inspection. In December 2002, Pettit laid off

Benningfield and two other technicians, stating that they lacked commercial driver's licenses. Benningfield later pursued an administrative charge under KRS 338.121 and then sued for wrongful discharge and IIED.

PROCEDURAL HISTORY

Benningfield reported alleged inadequate employee training to OSHA, was later laid off, and filed an administrative discrimination charge under KRS 338.121. After the charge was investigated and dismissed, he filed suit in Jefferson Circuit Court. The circuit court dismissed the wrongful-discharge claim and granted summary judgment on the IIED claim; the Court of Appeals affirmed. The Kentucky Supreme Court denied discretionary review on February 15, 2006.

DISPOSITION

affirmed

CASES CITED

- *Pari-Mutuel Clerks' Union v. Kentucky Jockey Club*, 551 S.W.2d 801, 803 (Ky. 1977)
- *Gall v. Scroggy*, 725 S.W.2d 867, 868 (Ky. App. 1987)
- *James v. Wilson*, 95 S.W.3d 875, 884 (Ky. App. 2002)
- *Revenue Cabinet v. Hubbard*, 37 S.W.3d 717, 719 (Ky. 2000)
- *Firestone Textile Co. v. Meadows*, 666 S.W.2d 730, 731 (Ky. 1984)
- *Brockmeyer v. Dun & Bradstreet*, 113 Wis. 2d 561, 335 N.W.2d 834, 840 (1983)
- *Grzyb v. Evans*, 700 S.W.2d 399, 401 (Ky. 1985)
- *Hines v. Elf Atochem North America, Inc.*, 813 F. Supp. 550, 552 (W.D. Ky. 1993), *aff'd*, 47 F.3d 1169 (6th Cir. 1995)
- *Roberson v. Lampton*, 516 S.W.2d 838, 840 (Ky. App. 1974)
- *Paintsville Hospital Company v. Rose*, 683 S.W.2d 255, 256 (Ky. 1985)
- *Scifres v. Kraft*, 916 S.W.2d 779, 781 (Ky. App. 1996)
- *Steelvest, Inc. v. Scansteel Service Center, Inc.*, 807 S.W.2d 476, 480 (Ky. 1991)
- *Craft v. Rice*, 671 S.W.2d 247, 251 (Ky. 1984)
- *Wilson v. Lowe's Home Center*, 75 S.W.3d 229, 238 (Ky. App. 2001)
- *Humana of Kentucky, Inc. v. Seitz*, 796 S.W.2d 1, 3 (Ky. 1990)
- *Godfredson v. Hess & Clark, Inc.*, 173 F.3d 365, 376 (6th Cir. 1999)
- *Gilbert v. Barkes*, 987 S.W.2d 772, 777 (Ky. 1999)
- *Welch v. American Publishing Co. of Kentucky*, 3 S.W.3d 724, 730 (Ky. 1999)
- *Neal v. Welker*, 426 S.W.2d 476, 479-80 (Ky. 1968)
- *Brown v. Diversified Decorative Plastics*, 103 S.W.3d 108, 113 (Ky. App. 2003)
- *Gutierrez v. Sundancer Indian Jewelry, Inc.*, 117 N.M. 41, 868 P.2d 1266, 1272-75 (N.M. Ct. App. 1993)
- *Skillsky v. Lucky Stores, Inc.*, 893 F.2d 1088, 1093-94 (9th Cir. 1990)

- *Lepore v. National Tool & Mfg. Co.*, 224 N.J. Super. 463, 540 A.2d 1296, 1298-99 (N.J. Super. Ct. App. Div. 1988)
- *Reed v. Municipality of Anchorage*, 782 P.2d 1155 (Alaska 1989)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/kentucky-court-of-appeals-of-kentucky/2005/benningfield-v-pettit-environmental-inc-qcpuc4o0>