

SUPREME COURT OF NEW MEXICO

Garcia-Montoya v. State Treasurer's Office, 130 N.M. 25

16 P.3d 1084 (2001) · No. No. 25,668 · Decided January 18, 2001

SUMMARY

The Supreme Court of New Mexico reviews summary judgment against Donna Garcia-Montoya on claims involving political patronage, sex discrimination, constitutional rights, intentional infliction of emotional distress, and defamation. The court concludes that genuine issues of material fact existed concerning whether her transfer violated the First Amendment, but holds that the individual defendants were entitled to qualified immunity because the applicable right was not clearly established for her position in 1995. The court affirms in part and remands in part.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Serna, Chief Justice; Baca, Justice; Franchini, Justice; Minzner, Justice
JURISDICTION	New Mexico
DECIDED	January 18, 2001
DOCKET	No. 25,668
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from the district court's grant of summary judgment for the defendants on claims under the New Mexico Human Rights Act, 42 U.S.C. § 1983, and state tort law.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court views the evidence and reasonable inferences in the light most favorable to the nonmoving party and denies summary judgment when a genuine issue of material fact exists.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Donna Garcia-Montoya v. State of New Mexico, State Treasurer's Office, Michael Montoya, Robert Andermann, Joan G. "Jody" Hooper

TOPICS

[section 1983](#)[qualified immunity](#)[free speech](#)[employment discrimination](#)[appellate procedure](#)

PRACTICE AREAS

constitutional law

civil rights

employment law

appellate procedure

QUESTIONS PRESENTED

1. Whether summary judgment was proper on Garcia-Montoya's First Amendment political-association claim under 42 U.S.C. § 1983.
2. Whether summary judgment was proper on Garcia-Montoya's First Amendment free-speech claim under 42 U.S.C. § 1983.
3. Whether Michael Montoya and Robert Andermann were entitled to qualified immunity on the First Amendment claims.
4. Whether summary judgment was proper on Garcia-Montoya's sex-discrimination claim under the New Mexico Human Rights Act after Reeves clarified the McDonnell Douglas burden-shifting framework.
5. Whether the New Mexico Tort Claims Act barred Garcia-Montoya's intentional-infliction-of-emotional-distress and defamation claims.

HOLDINGS

1. Garcia-Montoya raised a genuine issue of material fact as to whether her transfer violated the First Amendment because political affiliation was not shown, on the summary-judgment record, to be an appropriate requirement for effective performance of her former position. Nevertheless, Montoya and Andermann were entitled to qualified immunity because the unlawfulness of transferring an employee in that marginal position based on political affiliation was not clearly established in 1995.
2. Garcia-Montoya's speech criticizing politically motivated personnel decisions involved a matter of public concern, and the record did not establish that the employer's interests outweighed her speech interests under Pickering. However, Montoya and Andermann were entitled to qualified immunity because it was not clearly established in 1995 that the Pickering balancing test remained applicable to an adverse action involving a potentially policymaking employee.
3. A plaintiff ordinarily need not introduce additional evidence of discrimination beyond a prima facie case and evidence that the employer's asserted reason is false. Because the district court relied on an erroneous interpretation of *St. Mary's Honor Center v. Hicks*, the summary judgment for the State Treasurer's Office was vacated and the matter was remanded for reconsideration under Reeves.
4. The district court properly granted summary judgment on the intentional-infliction-of-emotional-distress and defamation claims because Garcia-Montoya failed to raise a genuine issue that Montoya and Andermann acted outside the scope of their duties as defined by the Tort Claims Act.

KEY QUOTATIONS

"Qualified immunity "shield[s] [government officials performing discretionary functions] from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." (16 P.3d 1084, 1088)

“The former two factors are questions of law to be decided by the court, while the latter two are issues of fact for the jury.” (16 P.3d 1084, 1099)

“It is permissible for the trier of fact to infer the ultimate fact of discrimination from the falsity of the employer’s explanation.” (16 P.3d 1084, 1101)

FACTUAL BACKGROUND

Garcia-Montoya worked in the New Mexico State Treasurer's Office and supported the prior State Treasurer, David King, during the 1994 Democratic primary. After Michael Montoya became Treasurer, Garcia-Montoya alleged that Montoya and Deputy Treasurer Robert Andermann made politically motivated personnel decisions and transferred her from director of administrative services to a newly created position. She claimed the transfer was based on her political affiliation, her criticism of personnel decisions, and her sex, and that the circumstances caused her emotional distress.

PROCEDURAL HISTORY

Garcia-Montoya filed suit after being transferred from director of administrative services to acting director of the local government investment pool. The district court granted summary judgment on all claims, including qualified immunity for the individual defendants, Tort Claims Act immunity for the tort claims, and lack of evidence of intentional sex discrimination for the Human Rights Act claim. The Supreme Court of New Mexico affirmed the judgments for the individual defendants but vacated the summary judgment for the State Treasurer's Office and remanded for reconsideration under Reeves.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The district court must reconsider the State Treasurer's Office's motion for summary judgment on the Human Rights Act sex-discrimination claim under Reeves and may permit the parties to develop facts relevant to whether the record conclusively reveals another nondiscriminatory reason for the transfer. The summary judgments for Montoya and Andermann on the Section 1983 and tort claims are affirmed.

CASES CITED

- Roth v. Thompson, 113 N.M. 331, 825 P.2d 1241 (1992)
- Carrillo v. Rostro, 114 N.M. 607, 845 P.2d 130 (1993)
- Las Cruces Country Club, Inc. v. City of Las Cruces, 81 N.M. 387, 467 P.2d 403 (1970)
- Pharmaseal Lab., Inc. v. Goffe, 90 N.M. 753, 568 P.2d 589 (1977)
- Phoenix Indem. Ins. Co. v. Pulis, 2000 NMSC-023, 129 N.M. 395, 9 P.3d 639
- Will v. Michigan Department of State Police, 491 U.S. 58 (1989)
- Kennedy v. Dexter Consolidated Schools, 2000 NMSC-025, 129 N.M. 436, 10 P.3d 115
- Harlow v. Fitzgerald, 457 U.S. 800 (1982)

- Wilson v. Layne, 526 U.S. 603 (1999)
- Elrod v. Burns, 427 U.S. 347 (1976)
- Branti v. Finkel, 445 U.S. 507 (1980)
- Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)
- Anderson v. Creighton, 483 U.S. 635 (1987)
- Pickering v. Board of Education, 391 U.S. 563 (1968)
- Connick v. Myers, 461 U.S. 138 (1983)
- Givhan v. Western Line Consolidated School District, 439 U.S. 410 (1979)
- Martinez v. City of Grants, 1996 NMSC-061, 122 N.M. 507, 927 P.2d 1045
- McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)
- St. Mary's Honor Center v. Hicks, 509 U.S. 502 (1993)
- Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133 (2000)
- Smith v. FDC Corp., 109 N.M. 514, 787 P.2d 433 (1990)
- Rummel v. Lexington Insurance Co., 1997 NMSC-041, 123 N.M. 752, 945 P.2d 970