

SUPREME COURT OF MONTANA

NorVal Electric Cooperative, Inc. v. McCone Electric Cooperative, Inc.

2009 MT 437N · No. DA 09-0351 · Decided December 22, 2009

SUMMARY

The Montana Supreme Court affirmed dismissal of NorVal Electric Cooperative’s second action against McCone Electric Cooperative concerning the right to provide electrical service to a pipeline pumping station. The Court held that claim preclusion and issue preclusion barred relitigation because the parties, subject matter, legal issue, and capacities were the same as in the prior action.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Chief Justice Mike McGrath; Justice W. William Leaphart; Justice James C. Nelson; Justice Brian Morris; Justice Patricia O. Cotter
JURISDICTION	Montana
DECIDED	December 22, 2009
DOCKET	DA 09-0351
DISPOSITION	affirmed
PROCEDURAL POSTURE	NorVal appealed dismissal of its second action seeking an injunction and a declaration that it had the exclusive right to provide engineering and electrical service to a pipeline pumping station. McCone cross-appealed the district court's refusal to decide its claim-preclusion and issue-preclusion arguments.
STANDARD OF REVIEW	The opinion does not expressly state a standard of review; it reviews the preclusion issue and the dismissal as a matter of law.
PRECEDENTIAL VALUE	Nonprecedential; noncitable memorandum opinion
PARTIES	NorVal Electric Cooperative, Inc. v. McCone Electric Cooperative, Inc.

TOPICS

res judicata

civil procedure

appellate procedure

PRACTICE AREAS

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether NorVal's second action was barred by claim preclusion or issue preclusion because the same parties had previously litigated the same subject matter and statutory entitlement.
2. Whether the Montana Supreme Court could affirm the dismissal on preclusion grounds without deciding whether NorVal had an exclusive statutory right to provide electrical service.

HOLDINGS

1. NorVal's second action was barred by claim preclusion and issue preclusion because the parties, subject matter, legal issue, and capacities of the parties were the same as in the prior action, and the prior action had already determined that NorVal did not possess the claimed exclusive right.
2. The court did not need to decide whether NorVal had an exclusive right to provide electrical service because dismissal of the second action was proper on claim-preclusion and issue-preclusion grounds.

KEY QUOTATIONS

"The parties (NorVal and McCone) were the same in both actions; the subject matter (providing electric service to Station 11) was the same in both actions; the issue (whether NorVal had the exclusive right to provide service under § 69-5-105, MCA) was the same in both actions; and the parties were in the same capacity in reference to the subject matter and issue in both actions." (¶ 7)

FACTUAL BACKGROUND

TransCanada Keystone Pipeline proposed a crude-oil pipeline through Montana, including a pumping station in McCone County. NorVal and McCone, rural electric cooperatives operating in the area, disputed which cooperative had the right to study and provide electrical service to the station. After NorVal lost its first action asserting an exclusive right under the Territorial Integrity Act, it filed a second action against McCone asserting the same statutory claim.

PROCEDURAL HISTORY

NorVal first sued McCone in McCone County under Montana's Territorial Integrity Act. The court dissolved a temporary restraining order, held that NorVal lacked the claimed exclusive right, and dismissed the complaint; NorVal did not appeal. NorVal then filed a materially identical action in Valley County, where the district court again dissolved the temporary restraining order and dismissed the complaint on the merits, without reaching preclusion. The Montana Supreme Court affirmed because the second action was barred by claim and issue preclusion.

DISPOSITION

affirmed

CASES CITED

- Baltrusch v. Baltrusch, 2006 MT 51, ¶¶ 15-16, 331 Mont. 281, 130 P.3d 1267
- McDaniel v. State, 2009 MT 159, ¶¶ 28, 33, 350 Mont. 422, 208 P.3d 817

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