

SUPREME COURT OF COLORADO

CF&I Steel, L.P. v. United Steel Workers of America

23 P.3d 1197 (Colo. 2001) · No. No. 99SC587 · Decided May 29, 2001

SUMMARY

The Colorado Supreme Court held that a provision of the Colorado Labor Peace Act prohibiting all labor picketing in residential areas was facially unconstitutional under the First Amendment and the Equal Protection Clause of the Fourteenth Amendment. The court affirmed the court of appeals' judgment invalidating the injunction insofar as it barred peaceful residential labor picketing and remanded for clarification of the trial court's findings concerning union authorization or ratification of members' improper conduct. The court did not reach the issue of whether peaceful residential labor picketing could otherwise be enjoined under the National Labor Relations Act's preemption principles.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Chief Justice Mullarkey
JURISDICTION	Colorado
DECIDED	May 29, 2001
DOCKET	No. 99SC587
DISPOSITION	affirmed
PROCEDURAL POSTURE	CF&I sought injunctive relief during a labor strike. The trial court issued a temporary restraining order and preliminary injunction against union activity, including residential picketing. The Colorado Court of Appeals held the residential labor-picketing provision facially unconstitutional, affirmed the injunction as to harassing or coercive conduct, and remanded for findings concerning union authorization or ratification. The Colorado Supreme Court affirmed and remanded for clarification.
STANDARD OF REVIEW	Constitutionality of a statute reviewed under First Amendment and Equal Protection Clause standards; statutory language construed according to its plain meaning; sufficiency and clarity of the trial court's findings reviewed to determine whether remand is required.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

United Steel Workers of America, United Steel Workers of America Locals 2102 and 3287, Jack Golden, David Kins, Ernie Hernandez, Joey Padilla, Jeanne Landreth, Jim Harford, Sam Pierce, Tom Genetta, Richard Martinez, Henry Lefabre v. CF&I Steel, L.P.

TOPICS

free speech first amendment equal protection labor law remedies

PRACTICE AREAS

constitutional law labor law employment law civil rights remedies

QUESTIONS PRESENTED

1. Whether section 8-3-108(2)(a) of the Colorado Labor Peace Act, which prohibited labor picketing at an employee's residence, was facially invalid under the First Amendment.
2. Whether the same provision violated the Equal Protection Clause of the Fourteenth Amendment by distinguishing between labor and nonlabor picketing.
3. Whether the case required remand for findings concerning whether the union authorized or ratified the improper conduct of its members.
4. Whether the trial court's injunction could be sustained under the state's police power despite the invalidity of the statutory residential-picketing prohibition.

HOLDINGS

1. Section 8-3-108(2)(a) of the Colorado Labor Peace Act was facially invalid under the First Amendment because it imposed a content-based prohibition on labor picketing in residential areas and was not narrowly drawn to serve a compelling governmental interest.
2. Section 8-3-108(2)(a) violated the Equal Protection Clause because it selectively prohibited labor picketing while allowing other residential picketing and was not sufficiently tailored to a legitimate state objective.
3. The union could be held liable for the tortious conduct of its members only upon proof by a preponderance of the evidence that it participated in, authorized, or ratified the conduct; the case had to be remanded because the trial court had not made specific findings on those issues.
4. The injunction was invalid to the extent it rested on the unconstitutional residential-picketing provision, but it could potentially be upheld insofar as it was based on the state's police power to enjoin coercive, violent, threatening, or otherwise unlawful conduct. The trial court had to clarify the basis and scope of the injunction.

KEY QUOTATIONS

"We now hold that this provision of the Labor Peace Act prohibiting all labor picketing in residential areas, whether peaceful or not, is facially unconstitutional under the First Amendment and the Equal Protection

Clause of the Fourteenth Amendment.” (at 1199)

“The regulation’s categorical prohibition of picketing arising from labor disputes is not narrowly tailored to advance the state’s interest in residential privacy, and therefore it violates the First Amendment.” (at 1205)

“Thus, in this case the Union can be held liable only if it can be proven by a preponderance of the evidence that it participated in, authorized, or ratified the tortious acts of its members.” (at 1206)

“Therefore, the trial court’s order can be upheld only if it was legitimately based on the police power of the state.” (at 1207)

FACTUAL BACKGROUND

CF&I Steel employees went on strike in Pueblo, Colorado, beginning October 3, 1997. During the strike, some union members engaged in telephone harassment, property damage, vehicle following, verbal threats, and interference with access to the plant, while others picketed the residences of nonstriking employees. The trial court found that the union had not authorized, ratified, or condoned the improper acts, but issued a preliminary injunction that included a ban on residential picketing.

PROCEDURAL HISTORY

During a 1997 strike, union members engaged in harassment, threats, property damage, vehicle following, interference with plant access, and residential picketing. The trial court issued a preliminary injunction and found that the union had not authorized, ratified, or condoned the improper conduct, but nevertheless enjoined the union from specified conduct and from residential picketing. The court of appeals invalidated the statutory residential-picketing prohibition, affirmed relief against harassing or coercive conduct, and remanded for additional findings. The supreme court affirmed the court of appeals and returned the matter to the trial court to clarify the legal basis and scope of the injunction and to determine whether the union authorized or ratified the wrongful conduct.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The trial court must clarify whether the union-related misconduct was enjoinable under the state’s police power, identify the extent to which the preliminary injunction rested on that power rather than the unconstitutional statute, and determine whether the union participated in, authorized, or ratified the wrongful conduct of its members.

CASES CITED

- CF&I Steel, L.P. v. United Steel Workers, 990 P.2d 1124 (Colo. App. 1999)
- Lewis v. Colorado Rockies Baseball Club, 941 P.2d 266 (Colo. 1997)

- Pueblo Building & Construction Trades Council v. Harper Construction Co., 134 Colo. 469, 307 P.2d 468 (1957)
- Police Department of the City of Chicago v. Mosley, 408 U.S. 92 (1972)
- Carey v. Brown, 447 U.S. 455 (1980)
- Perry Education Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37 (1983)
- Hague v. Committee for Industrial Organization, 307 U.S. 496 (1939)
- Frisby v. Schultz, 487 U.S. 474 (1988)
- United States v. Grace, 461 U.S. 171 (1983)
- Ward v. Rock Against Racism, 491 U.S. 781 (1989)
- Cox v. Louisiana, 379 U.S. 536 (1965)
- Flores v. City & County of Denver, 122 Colo. 71, 220 P.2d 373 (1950)
- Denver Milk Producers, Inc. v. International Brotherhood of Teamsters, 116 Colo. 389, 183 P.2d 529 (1947)
- Swenson v. Seattle Central Labor Council, 27 Wash. 2d 193, 177 P.2d 873 (1947)
- Hill v. Colorado, 530 U.S. 703 (2000)
- United Brotherhood of Carpenters & Joiners v. United States, 330 U.S. 395 (1947)
- Fry v. Airline Pilots Ass'n, 88 F.3d 831 (10th Cir. 1996)
- Vikman v. International Brotherhood of Electrical Workers, Local Union 1269, 889 P.2d 646 (Colo. 1995)
- Consolidation Coal Co. v. United Mine Workers, Local 1261, 725 F.2d 1258 (10th Cir. 1984)
- United Mine Workers v. Gibbs, 383 U.S. 715 (1966)
- People ex rel. Shaffer v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, 175 Colo. 187, 486 P.2d 10 (1971)
- United Mine Workers v. Golden Cycle Corp., 134 Colo. 140, 300 P.2d 799 (1956)
- Allen-Bradley Local No. 1111, United Electrical, Radio & Machine Workers v. Wisconsin Employment Relations Board, 315 U.S. 740 (1942)
- Milk Wagon Drivers Union of Chicago, Local 753 v. Meadowmoor Dairies, Inc., 312 U.S. 287 (1941)