

SUPREME COURT OF TEXAS

Kingsaire, Inc. d/b/a Kings Aire, Inc. v. Jorge Melendez

Kingsaire · No. 14-0006 · Decided December 4, 2015

SUMMARY

Justice Eva M. Guzman concurred in the Texas Supreme Court’s decision holding that Jorge Melendez failed to prove a retaliatory-discharge claim under the Texas Workers’ Compensation Act. The concurrence explains that uniform enforcement of a reasonable leave policy is an inferential rebuttal defense, not an affirmative defense, and that the employee retains the burden to prove causation and disprove the employer’s leave-policy explanation. It also addresses the treatment of that defense in legal-sufficiency review and jury-charge proceedings.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Eva M. Guzman
JURISDICTION	Texas
DECIDED	December 4, 2015
DOCKET	14-0006
DISPOSITION	other
PROCEDURAL POSTURE	Petition for review from the Court of Appeals for the Eighth District of Texas following a jury finding that Melendez was terminated for filing a workers' compensation claim.
STANDARD OF REVIEW	No-evidence legal-sufficiency review.
PRECEDENTIAL VALUE	Published Texas Supreme Court concurring opinion; the concurrence's additional reasoning is not itself the majority holding.
PARTIES	Kingsaire, Inc. d/b/a Kings Aire, Inc. v. Jorge Melendez

TOPICS

[retaliation](#)[workers compensation](#)[family and medical leave act](#)[appellate procedure](#)[standard of review](#)

PRACTICE AREAS

[employment law](#)[workers compensation](#)[appellate procedure](#)[civil procedure](#)

QUESTIONS PRESENTED

1. Whether uniform enforcement of a reasonable leave policy is an inferential rebuttal defense to a retaliatory-discharge claim under the Texas Workers' Compensation Act.
2. Whether the employee bears the burden of disproving that termination resulted from uniform enforcement of a reasonable leave policy.
3. Whether the trial court erred by refusing to submit a separate jury question on the leave-policy defense.
4. Whether the evidence was legally sufficient to support the jury's retaliatory-discharge finding.

HOLDINGS

1. When an employer produces evidence that an adverse employment action resulted from uniform enforcement of a reasonable leave policy, the employee must prove the elements of retaliation and disprove that termination was based on the leave policy.
2. Uniform enforcement of a reasonable leave policy is an inferential rebuttal defense, not an affirmative defense, because it rebuts the causation element of the employee's retaliatory-discharge claim rather than avoiding liability after all elements are proved.
3. An inferential rebuttal defense cannot be submitted to the jury through a separate jury question; it must be presented through jury instructions.

KEY QUOTATIONS

“Absent evidence proving the leave policy was applied in a discriminatory manner or the reason for discharge was pretextual, a retaliatory discharge claim is not viable.” (at 1)

“If an employee’s termination is required by the uniform enforcement of a reasonable absentee policy, then it cannot be the case that termination would not have occurred when it did but for the employee’s assertion of a compensation claim or other conduct protected by section 451.001.” (at 2)

“A leave-policy defense cannot be treated as an affirmative defense because doing so would impermissibly shift the burden of causation to the defendant in contravention of the retaliatory-discharge statute.” (at 3)

FACTUAL BACKGROUND

Melendez filed a workers' compensation claim and remained on medical leave beyond the twelve weeks protected by the Family and Medical Leave Act. Kings Aire terminated him pursuant to a leave policy that the concurrence describes as reasonable and uniformly enforced. Although the jury found that the termination was for filing a workers' compensation claim, the record contained no evidence of employer subterfuge or that the leave policy was inapplicable or discriminatorily applied.

PROCEDURAL HISTORY

The case reached the Supreme Court of Texas on Kings Aire's petition for review. The jury found that Melendez was terminated for filing a workers' compensation claim, and the trial court declined to submit a separate jury question on Kings Aire's leave-policy defense. The concurrence states that the Supreme Court's disposition of

Kings Aire's first appellate point mooted the second point and that the Court held Melendez failed to prove retaliatory discharge.

DISPOSITION

other

CASES CITED

- Cont'l Coffee Prods. Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996)
- Haggard Clothing Co. v. Hernandez, 164 S.W.3d 386 (Tex. 2005)
- Dillard v. Tex. Elec. Coop., 157 S.W.3d 429 (Tex. 2005)
- Tex. Beef Cattle Co. v. Green, 921 S.W.2d 203 (Tex. 1996)
- Select Ins. Co. v. Boucher, 561 S.W.2d 474 (Tex. 1978)
- Zorrilla v. Aypco Constr. II, LLC, 469 S.W.3d 143 (Tex. 2015)
- Cazarez, 937 S.W.2d at 452
- Bed, Bath & Beyond, Inc. v. Urista, 211 S.W.3d 753 (Tex. 2006)
- Lemos v. Montez, 680 S.W.2d 798 (Tex. 1984)