

SUPREME COURT OF OKLAHOMA

King v. Berryhill Fire Protection District

2013 OK 76, 311 P.3d 836 · Decided September 24, 2013

SUMMARY

The Oklahoma Supreme Court affirmed a jury verdict finding that Steven King was wrongfully terminated for opposing and attempting to prevent an allegedly unlawful and unsafe fire-training exercise. The court held that whether the proposed burning constituted arson or was merely a legitimate training exercise presented a factual issue for the jury. The court also rejected Berryhill's arguments that trial errors warranted a new trial.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Oklahoma                                                                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Reif, Vice Chief Justice; Colbert, Chief Justice; Watt, Justice; Edmondson, Justice; Combs, Justice; Gurich, Justice; Kauger, Justice; Winchester, Justice; Taylor, Justice                                                                                                                                                                                             |
| JURISDICTION          | Oklahoma                                                                                                                                                                                                                                                                                                                                                                |
| DECIDED               | September 24, 2013                                                                                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | vacated                                                                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Berryhill sought review of a Court of Civil Appeals decision reversing or rejecting the trial court's treatment of King's wrongful-termination claim. The Oklahoma Supreme Court granted certiorari, vacated the Court of Civil Appeals opinion, and reviewed the trial court's judgment on the jury verdict and Berryhill's asserted grounds for a new trial.          |
| STANDARD OF REVIEW    | The judgment on the jury verdict was reviewed for competent evidence and fundamental error. The denial of a new trial was reviewed for whether the alleged errors, considered individually or collectively in the context of the entire record, warranted a new trial; any assumed errors were harmless because the pivotal credibility issue was resolved by the jury. |
| PRECEDENTIAL VALUE    | Published Oklahoma Supreme Court opinion                                                                                                                                                                                                                                                                                                                                |
| PARTIES               | Berryhill Fire Protection District v. Steven King                                                                                                                                                                                                                                                                                                                       |

## TOPICS

wrongful termination

retaliation

employment at-will

municipal law

appellate procedure

## PRACTICE AREAS

Employment law

Torts

Municipal law

Appellate procedure

## QUESTIONS PRESENTED

1. Whether the evidence supported King's claim that his termination violated a clear mandate of Oklahoma public policy.
2. Whether the proposed burning of the fire chief's structures could be deemed arson as a matter of law, or whether that issue was for the jury.
3. Whether the alleged evidentiary, instructional, and trial-management errors required a new trial.
4. Whether the jury's damages award was excessive.

## HOLDINGS

1. The Court of Civil Appeals erred by holding that the proposed burning could not constitute arson as a matter of law. Whether the purported training exercise was a legitimate burn with just cause or excuse, or a pretext for an unlawful burning, was a factual issue for the jury.
2. An employer's termination of an at-will employee for exposing and opposing an unlawful and unsafe practice violates Oklahoma's clear public policy and constitutes a tortious breach of contractual obligations when the employee's conduct furthers that policy.
3. The trial court's judgment on the jury verdict must be affirmed because the record contained competent evidence supporting the verdict and no fundamental error occurred in the trial.
4. Berryhill was not entitled to a new trial, and the damages were not excessive, because King established the wages he would have earned but for the wrongful termination through the date of trial and any assumed errors were harmless in light of the jury's resolution of the pivotal credibility issue.

## KEY QUOTATIONS

*"It is well settled that "(an employer's termination of an at-will employee in contravention of a clear mandate of public policy is a tortious breach of contractual obligations."" (837)*

*"Employees who report and complain of an employer's unlawful or unsafe practices and whose actions seek to further public good by unmasking these breaches should be protected from an employer's retaliation." (837)*

*"The chief problem with this analysis is that it invades the province of the jury." (837)*

## FACTUAL BACKGROUND

Steven King was employed by the Berryhill Fire Protection District and opposed a proposed training exercise involving the burning of structures owned by the fire chief. King contended that the proposed burn was unlawful

and unsafe and could constitute arson, while the fire chief characterized it as a training exercise. The jury credited King's account, found that he acted to prevent arson and expose unlawful and unsafe conduct, and found that he was terminated in retaliation. The record also supported the jury's award of lost wages through trial.

## PROCEDURAL HISTORY

King sued Berryhill Fire Protection District after being terminated for opposing a proposed burning of structures owned by the fire chief. The trial court submitted King's wrongful-termination claim to a jury, and the jury found in King's favor. The Court of Civil Appeals disagreed, concluding as a matter of law that the proposed training burn could not constitute arson. The Supreme Court granted certiorari, vacated the Court of Civil Appeals opinion, and affirmed the trial court's judgment on the jury verdict, concluding that competent evidence supported the verdict and that the alleged trial errors did not warrant a new trial.

## DISPOSITION

vacated

## CASES CITED

- Burk v. K-Mart Corp., 1989 OK 22, 770 P.2d 24, 28
- Marshall v. OK Rental & Leasing, Inc., 1997 OK 34, 939 P.2d 1116, 1119
- Kruchowski v. The Weyerhaeuser Company, 2008 OK 105, 202 P.3d 144, 154
- Vasek v. Board of County Commissioners of Noble County, 2008 OK 35, 186 P.3d 928, 933-934

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