

SUPREME COURT OF ARKANSAS

Gonzales v. City of DeWitt, 357 Ark. 10

159 S.W.3d 298 (2004) · No. No. 03-936 · Decided April 15, 2004

SUMMARY

The Arkansas Supreme Court reviewed whether the City of DeWitt violated the Arkansas Local Police and Fire Retirement System statute by adopting a Pan American Life retirement plan for its police officers. The court held that LOPFI participation was discretionary, but that the statute prohibited a political subdivision from commencing coverage under another plan similar in purpose to LOPFI, creating a material factual issue requiring reversal of summary judgment and remand. The court further held that, if a violation were established, the trial court could order the city to terminate the alternative retirement coverage.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Donald L. Corbin
JURISDICTION	Arkansas
DECIDED	April 15, 2004
DOCKET	No. 03-936
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appellants appealed the Arkansas County Circuit Court's grant of summary judgment to the City of DeWitt in an action alleging that the City's retirement plan for police officers violated the Arkansas Local Police and Fire Retirement System. The Arkansas Supreme Court accepted certification from the Arkansas Court of Appeals because the case presented an issue of first impression.
STANDARD OF REVIEW	The Supreme Court reviewed whether summary judgment was appropriate by examining whether the evidentiary materials supporting the motion left a material fact unanswered, viewing the evidence and reasonable inferences in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Benny Gonzales, et al. v. City of DeWitt

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QUESTIONS PRESENTED

1. Whether Ark. Code Ann. § 24-10-302(a), governing political subdivisions without a qualifying relief fund, requires the City of DeWitt to participate in LOPFI.
2. Whether the City's adoption of the Pan American Life retirement plan potentially violated Ark. Code Ann. § 24-10-302(c), which prohibits commencing coverage under another plan similar in purpose to LOPFI.
3. Whether summary judgment was proper when the record left unresolved whether the Pan American plan was similar in purpose to LOPFI.
4. Whether the circuit court had authority to order a remedy if the City violated § 24-10-302(c).

HOLDINGS

1. Participation in LOPFI under § 24-10-302(a) is discretionary for a political subdivision without a relief fund; the statute does not mandate that the City of DeWitt elect LOPFI coverage.
2. If a political subdivision does not participate in LOPFI, it may not commence coverage of police officers or firefighters under another plan similar in purpose to LOPFI, except Social Security.
3. Summary judgment was improper because whether the Pan American Life plan was similar in purpose to LOPFI presented a material factual issue for the trial court.
4. If the trial court determines that the Pan American plan violates § 24-10-302(c), it may order DeWitt to terminate the plan's retirement coverage for its police officers, although it may not force DeWitt to participate in LOPFI.

KEY QUOTATIONS

“The purpose of summary judgment is not to try the issues, but to determine whether there are any issues to be tried.” (at 301)

“Nothing in section 24-10-302 makes participation in LOPFI mandatory.” (at 302)

“The statute on its face dictates that participation in LOPFI is discretionary, but participation in a plan with a purpose similar to LOPFI's is not an option.” (at 303)

FACTUAL BACKGROUND

The City of DeWitt had discontinued an earlier police retirement plan in 1977. In 1989, after considering participation in LOPFI and other retirement options, the city council adopted a Pan American Life retirement plan for all city employees, effective January 1, 1990. Police officers sued, claiming that the plan violated LOPFI's prohibition on commencing coverage under another plan similar in purpose to LOPFI, except for Social Security.

PROCEDURAL HISTORY

The City adopted a Pan American Life retirement plan for city employees in 1989, effective January 1, 1990. Appellants sued in 1999, alleging that the plan violated LOPFI. The circuit court granted the City's motion for summary judgment, concluding that LOPFI participation was optional and that any issue concerning the City's adoption of another retirement plan was not before the court. The Supreme Court reversed and remanded because the complaint presented the statutory-violation issue and a material factual issue remained concerning whether the Pan American plan was similar in purpose to LOPFI.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must determine whether the Pan American Life plan is similar in purpose to LOPFI and therefore violates § 24-10-302(c). If a violation is found, the trial court must order DeWitt to cease covering its police officers under the Pan American plan; it may not compel the City to participate in LOPFI.

CASES CITED

- Chavers v. General Motors Corp., 349 Ark. 550, 79 S.W.3d 361 (2002)
- Foreman School District No. 25 v. Steele, 347 Ark. 193, 61 S.W.3d 801 (2001)
- Pfeifer v. City of Little Rock, 346 Ark. 449, 57 S.W.3d 714 (2002)
- Elam v. First Unum Life Insurance Co., 346 Ark. 291, 57 S.W.3d 165 (2001)
- Flentje v. First National Bank of Wynne, 340 Ark. 563, 11 S.W.3d 531 (2000)
- Fryar v. Roberts, 346 Ark. 432, 57 S.W.3d 727 (2001)
- Cole v. Laws, 349 Ark. 177, 76 S.W.3d 878 (2002)
- Raley v. Wagner, 346 Ark. 234, 57 S.W.3d 683 (2001)
- Todd v. Ligon, 356 Ark. 187, 148 S.W.3d 229 (2004)
- Cave City Nursing Home, Inc. v. Arkansas Department of Human Services, 351 Ark. 13, 89 S.W.3d 884 (2002)
- Cortinez v. Arkansas Supreme Court Committee on Professional Conduct, 353 Ark. 104, 111 S.W.3d 369 (2003)
- Marcum v. Wengert, 344 Ark. 153, 40 S.W.3d 230 (2001)
- Ray & Sons Masonry Contractors, Inc. v. United States Fidelity & Guaranty Co., 353 Ark. 201, 114 S.W.3d 189 (2003)

- Brewer v. Fergus, 348 Ark. 577, 79 S.W.3d 831 (2002)
- Cole v. Laws, 349 Ark. 177, 76 S.W.3d 878 (2002), cert. denied, 537 U.S. 1003, 123 S. Ct. 509, 154 L. Ed. 2d 400 (2002)

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