

SUPREME COURT OF WASHINGTON

Antonius v. King County, 153 Wash. 2d 256

103 P.3d 729 (2004) · No. No. 74759-8 · Decided February 4, 2005

SUMMARY

The Washington Supreme Court held that the U.S. Supreme Court's analysis in *National Railroad Passenger Corp. v. Morgan* applies to hostile work environment claims under Washington's Law Against Discrimination. A hostile work environment claim is treated as a unified unlawful employment practice, so acts outside the three-year limitations period may be considered if at least one related act occurred within that period. The court affirmed reversal of partial summary judgment for King County and remanded for application of the *Morgan* standard.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Madsen, J.; Alexander, C.J.; Bridge, J.; Johnson, J.; Chambers, J.; Sanders, J.; Owens, J.; Ireland, J.; Fairhurst, J.
JURISDICTION	Washington
DECIDED	February 4, 2005
DOCKET	No. 74759-8
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	King County sought discretionary review of the Court of Appeals' reversal of partial summary judgment entered in the County's favor in a hostile work environment discrimination action. The Washington Supreme Court affirmed the Court of Appeals and remanded for application of the <i>National Railroad Passenger Corp. v. Morgan</i> framework.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court determines whether there is no genuine issue of material fact and whether the moving party is entitled to judgment as a matter of law; on remand, the trial court was directed to apply <i>Morgan</i> in determining whether the alleged acts formed one actionable hostile work environment and whether any qualifying act occurred within the limitations period.
PRECEDENTIAL VALUE	Published Washington Supreme Court en banc opinion; precedential and binding in Washington courts.

TOPICS

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QUESTIONS PRESENTED

1. Whether Washington should adopt the United States Supreme Court's Morgan analysis for determining the timeliness of hostile work environment claims under the Washington Law Against Discrimination.
2. Whether a hostile work environment claim is timely as to earlier acts when at least one act contributing to the same hostile work environment occurred within the three-year limitations period.
3. Whether Washington recognizes a discovery rule of accrual for hostile work environment claims under the Washington Law Against Discrimination.
4. Whether a gap in alleged discriminatory conduct, including Antonius's transfer to an all-female facility, necessarily prevents earlier and later acts from being part of the same hostile work environment.
5. Whether the trial court properly granted partial summary judgment after applying the continuing-violation framework.

HOLDINGS

1. Washington adopts the Morgan analysis for determining whether a hostile work environment claim is timely under the Washington Law Against Discrimination. A hostile work environment claim is treated as one unlawful employment practice composed of a series of related acts, rather than as separate acts subject to a continuing-violation exception.
2. Earlier acts may be considered as part of a hostile work environment claim if they are part of the same actionable hostile work environment practice and at least one contributing act occurred within the statutory limitations period.
3. Washington declines to adopt a discovery rule of accrual for hostile work environment claims under the Washington Law Against Discrimination.
4. A gap in alleged discriminatory conduct does not, by itself, prevent acts before and after the gap from constituting one hostile work environment under Morgan.
5. The trial court improperly granted partial summary judgment because it applied the continuing-violation doctrine rather than Morgan; the case must be remanded for proceedings under the correct standard.

KEY QUOTATIONS

“It occurs over a series of days or perhaps years and, in direct contrast to discrete acts, a single act of harassment may not be actionable on its own.... Such claims are based on the cumulative effect of individual acts.” (153 Wash. 2d at 734)

“We conclude that Morgan provides a logical analysis for determining liability under WLAD for a hostile work environment claim.” (153 Wash. 2d at 736)

“Thus, a gap, in and of itself, is not a reason to treat acts occurring before and after that gap as not constituting parts of the same unlawful employment practice under Morgan.” (153 Wash. 2d at 738)

FACTUAL BACKGROUND

Rose Antonius worked for King County as a corrections officer and was exposed for many years to sexually derogatory comments, sexually explicit inmate conduct, and pornographic materials at correctional facilities. She experienced less frequent but continuing sexually derogatory conduct after transfers to other facilities, including conduct within three years before filing suit. She filed suit on December 22, 2000, alleging that the County fostered and maintained a sex-based hostile work environment.

PROCEDURAL HISTORY

Antonius sued King County under Washington's Law Against Discrimination, alleging a sex-based hostile work environment. The trial court granted the County partial summary judgment on statute-of-limitations grounds and certified the issue for discretionary review. The Court of Appeals reversed after applying Morgan, and the Washington Supreme Court affirmed that reversal and remanded because the trial court had applied the superseded continuing-violation analysis.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the trial court for further proceedings consistent with Morgan. If the County renews its summary judgment motion, the trial court must determine whether material issues of fact exist under Morgan's hostile-work-environment analysis. The County may assert any available equitable defenses.

CASES CITED

- National Railroad Passenger Corp. v. Morgan, 536 U.S. 101, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002)
- Glasgow v. Ga-Pac. Corp., 103 Wash. 2d 401, 406-07, 693 P.2d 708 (1985)
- Martini v. Boeing Co., 137 Wash. 2d 357, 367-68, 372-75, 971 P.2d 45 (1999)
- Washington v. Boeing Co., 105 Wash. App. 1, 8-9, 19 P.3d 1041 (2000)
- Provencher v. CVS Pharmacy, 145 F.3d 5, 14-15 (1st Cir. 1998)
- Milligan v. Thompson, 90 Wash. App. 586, 595, 953 P.2d 112 (1998)
- Galloway v. General Motors Service Parts Operations, 78 F.3d 1164, 1166 (7th Cir. 1996)

- Hill v. BCTI Income Fund-I, 144 Wash. 2d 172, 180, 185-86, 23 P.3d 440 (2001)
- Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133 (2000)
- Xieng v. People's National Bank of Washington, 120 Wash. 2d 512, 518-22, 527-30, 844 P.2d 389 (1993)
- Allison v. Housing Authority of City of Seattle, 118 Wash. 2d 79, 86, 821 P.2d 34 (1991)
- Douchette v. Bethel School District No. 403, 117 Wash. 2d 805, 813-15, 818 P.2d 1362 (1991)
- Shields v. Fort James Corp., 305 F.3d 1280, 1281 (11th Cir. 2002)
- Lucas v. Chicago Transit Authority, 367 F.3d 714, 727-28 (7th Cir. 2004)
- Selan v. Kiley, 969 F.2d 560 (7th Cir. 1992)
- Lively v. Flexible Packaging Ass'n, 830 A.2d 874, 892, 895-96 (D.C. 2003)
- Hinman v. Yakima School District No. 7, 69 Wash. App. 445, 452-53, 850 P.2d 536 (1993)

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