



08/15/95 GALEN WILLIS v. COUNTY SHERBURNE

1995 | Cited 0 times | Court of Appeals of Minnesota | August 15, 1995

NORTON, Judge

Appellants contend the district court erred in denying summary judgment on the basis of a lack of subject matter jurisdiction. Respondent challenges summary judgment on his wrongful termination claim. The law requires respondent to bring all claims related to his termination of employment by a writ of certiorari, not by independent civil actions in district court. We affirm the denial of summary judgment on the defamation and discrimination claims, affirm summary judgment on the wrongful termination claim, and reverse denial of summary judgment on the breach of contract claim.

FACTS

Respondent Galen Willis began working as an appraiser in the Sherburne County Assessor's Office in 1988 and then became manager of the County Mapping Department. In June 1990, the county implemented the Geographic Information System (GIS), which is a data base that includes each parcel of property in the county. The county later reorganized the Mapping Department as a separate county department and promoted Willis to the position of director of the new Land Information/Mapping Office.

Willis initially hired appellant Dan Nickols as a land surveyor in the Land Information/Mapping Office. Willis later recommended that the board promote Nickols to the newly created position of county surveyor in the Land Information/Mapping Office; the board followed his recommendation and promoted Nickols.

In January 1991, Willis was diagnosed as having multiple sclerosis, a progressive debilitating disease of the nervous system; he informed the chair of the county board and various other department heads about his medical condition.

In 1992, the county received various anonymous letters that were critical of Willis' job performance. Willis claims that Nickols may have generated those letters in an attempt to undermine Willis' authority in the department. The county board eventually split the Land Information/Mapping Office into two separate divisions; Willis remained in charge of one department and Nickols was promoted to direct the other. A county commissioner assured Willis that his job was not in jeopardy despite the reorganization of the department.

On June 8, 1993, the board reorganized the Land Information/Mapping Office again, requiring Willis



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to report to Nickols. Willis told Nickols on June 9, 1993, that he would be unable to perform field study work because his multiple sclerosis prevented him from doing strenuous outdoor activities. On June 15, 1993, the board terminated Willis, the position he held, and the program in which he worked. The county did not reassign Willis to another job within county government. Willis' employment ended on June 30, 1993. Willis presented evidence that, despite its statements, the county continued the project and the program that Willis had been in charge of before his termination.

Willis sued the county and Nickols, alleging breach of contract, disability discrimination, defamation, and interference with prospective advantage. The county and Nickols moved for summary judgment, challenging subject matter jurisdiction and alleging that Willis' sole remedy was through a writ of certiorari. The district court granted summary judgment dismissing the wrongful termination claim, but denied summary judgment on the remaining claims.

DECISION

A denial of summary judgment on the basis of subject matter jurisdiction is immediately appealable because it compels the defending party to "take up the burden of litigation." *M.A. Mortenson Co. v. Commissioner of Revenue*, 470 N.W.2d 126, 128 (Minn. App. 1991). When facts are not at issue on appeal from summary judgment, this court determines whether the district court erred in its application of the law. See *Wartnick v. Moss & Barnett*, 490 N.W.2d 108, 112 (Minn. 1992). Whether subject matter jurisdiction exists is a legal question for the court. *Wilkie v. Allied Van Lines, Inc.*, 398 N.W.2d 607, 610 (Minn. App. 1986).

A. Wrongful Termination and Breach of Contract Claims

The exclusive method for an employee to receive judicial review of a county's employment termination decision is through a petition for a writ of certiorari directly to this court within 60 days of the county board's decision. *Dietz v. Dodge County*, 487 N.W.2d 237, 239 (Minn. 1992). The supreme court explained its rationale:

Because it mandates nonintrusive and expedient judicial review, certiorari is compatible with the maintenance of fundamental separation of power principles, and thus is a particularly appropriate method of limiting and coordinating judicial review of the quasi-judicial decisions of executive bodies.

Id. (footnote omitted).

The district court determined that Dietz controls this case because Willis' lawsuit challenges the propriety of the county board's "discretionary, quasi-judicial" decision to terminate him. Willis contends this ruling was erroneous for two reasons.



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First, Willis contends the county board's decision was not "quasi-judicial" so as to invoke Dietz because the county held no hearing, examined no record, and made no findings of fact regarding Willis' termination. We disagree. Appellate review by writ of certiorari "in no way depends on whether there was a hearing." *Dokmo v. Independent Sch. Dist. No. 11*, 459 N.W.2d 671, 676 (Minn. 1990). There need not be a hearing to create an adequate record for review. *Id.*; see also Dietz, 487 N.W.2d at 238, 239 (county board terminated administrator of nursing home without hearing; supreme court considered decision quasi-judicial and required writ of certiorari for review).

Second, Willis argues his complaint raises a pure breach of contract claim, not a wrongful termination claim, and thus does not create a jurisdictional problem under Dietz. Again, we disagree.

This court has carved out an exception to the Dietz rule when an employee raises a "pure" breach of contract claim seeking ordinary money damages for the breach and does not challenge the discretionary decision that led to the actual termination. *Stadum v. Norman County*, 508 N.W.2d 217, 219 (Minn. App. 1993), pet. for rev. denied (Minn. Jan. 6, 1994). In contrast, when Dietz had requested additional relief, such as reinstatement and damages for mental anguish, the supreme court reasoned that the rights and liabilities of the parties are determined by "the propriety of the county's exercise of discretion in terminating her" and, thus, must be examined as part of the wrongful termination claim. Dietz, 487 N.W.2d at 240, quoted in *Stadum*, 508 N.W.2d at 219; see also *Dokmo*, 459 N.W.2d at 676 (when teacher, in complaint, attacked school district's decision to terminate and not reinstate her, her claims were reviewable only by certiorari).

Unlike *Stadum*, Willis' complaint requests damages for breach in excess of \$50,000, reinstatement, back pay, and damages for mental anguish and suffering. Willis' prayer for relief reflects that he is claiming the county board harmed him when it handled his employment termination improperly. Such claims sound in wrongful termination, not pure breach of contract, and fall under the Dietz rule rather than the *Stadum* exception.

Thus, the district court properly determined that, under Dietz, it lacked subject matter jurisdiction to hear Willis' claim because he had brought a civil suit instead of requesting a writ of certiorari within 60 days after termination.

The district court did err, however, when it relied upon *Stadum* to allow Willis' "pure" breach of contract claim based upon the county board's alleged violation of specific procedures for discipline and termination in the employee handbook. The *Stadum* court allowed the "pure" breach claim because the employee contended she was denied the contract right to "bump" a less-senior employee for a job and was denied the right to file a grievance. *Stadum*, 508 N.W.2d at 219. The *Stadum* court distinguished this "pure" breach of contract claim from the wrongful termination claim because it required that

the rights and liabilities of the parties * * * be determined by the terms of the contract as opposed to



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the "propriety" of the county's exercise of discretion in terminating her.

Id. In contrast to Stadum, Willis claimed the county breached the employment contract by terminating him without just cause and by failing to recall him to work. Here again, such claims would require this court to inquire into the method and propriety of the county board's exercise of discretion in terminating Willis. Dietz has established that all such inquiries fall under the wrongful termination claim and require a writ of certiorari for review. See Dietz, 487 N.W.2d at 240 (court refused to scrutinize manner in which county exercised its administrative duties because that scrutiny "runs a grave risk of usurping the county's administrative prerogative"); see also Stadum, 508 N.W.2d at 219 (court allowed pure breach claim only because it did not require court to scrutinize the county's discretionary decisions).

B. Discrimination Claim

The county next contends the district court erred in denying summary judgment on Willis' disability discrimination claim in which he alleged that Nickols and the county terminated him because of his multiple sclerosis. See Minn. Stat. § 363.03, subd. 2 (1992) (Minnesota Human Rights Act (MHRA) prohibits employers from terminating employees because of disability). The county claims that, under Dietz, when discrimination claims are intertwined with termination of employment claims, the supreme court has limited judicial review to a writ of certiorari.

The county has misconstrued the holding in Dietz, 487 N.W.2d at 239. While it is true that Dietz had raised a discrimination claim along with her wrongful termination claim in district court, she did not appeal summary judgment for the county on her discrimination claim. Id. at 238. Thus, the supreme court's holding requiring a writ of certiorari for review of all issues regarding a wrongful termination did not include the discrimination claim. Contrary to the county's contention, Dietz does not conflict with a discrimination victim's right to bring a civil action directly in district court under the MHRA. Minn. Stat. § 363.14, subds. 1, 2 (1992).

The district court here properly acknowledged its jurisdiction to consider Willis' discrimination claim.

C. Defamation Claim

The county argues that the district court also erred in denying summary judgment on Willis' defamation claim. The county contends that this claim, like the others, is part of the wrongful termination claim that requires a writ of certiorari. We disagree.

The driving element behind the Dietz doctrine is the court's

long-standing recognition that when the core discretionary acts of executive bodies are challenged,



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the continued vitality of fundamental constitutional principles compels the judiciary to exercise limited scrutiny.

Dietz, 487 N.W.2d at 241. The defamation issue here does not present the court with that problem. According to Willis, the defamation preceded his termination and was a separate and distinct incident. Willis contends the county board defamed him from April 1992 to June 1993 when it released to the local press certain letters critical of Willis. The court's necessary inquiry into what the county board knew about the truth or falsity of those letters before publishing them to a third party will not involve any inquiry into the county board's discretionary decision to terminate Willis. Cf. *id.* For this reason, the district court correctly determined that it had subject matter jurisdiction to decide the defamation issue.

We have not addressed the interference with prospective advantage claim because Nickols has not argued the issue on appeal.

Affirmed in part and reversed in part.

Fred C. Norton

8-9-95

