

Blodgett v. State, 394 Mont. 386 (2018)

427 P.3d 101, 2018 IER Cases 362,559, 2018 MT 243N

394 Mont. 386

Unpublished Disposition

(This decision without published opinion is referenced in the Pacific Reporter. See Mont. Sup. Ct. Internal Operating Rules s 1 and Order of the Montana Supreme Court on Opinion Forms and Citation Standards.)
Supreme Court of Montana.

Jeffrey A. BLODGETT, Plaintiff and Appellant,

v.

STATE of Montana, et al.,
Defendants and Appellees.

DA 18-0149

Submitted on Briefs: September 5, 2018

Decided: October 2, 2018

APPEAL FROM: District Court of the Eleventh Judicial District, In and For the County of Flathead, Cause No. DV-17-939(A), Honorable [Amy Eddy](#), Presiding Judge

Attorneys and Law Firms

For Appellant: Jeffrey A. Blodgett, self-represented, Ronan, Montana.

For Appellees: Courtney Mathieson, Special Assistant Attorney General, Risk Management and Tort Defense Division, Helena, Montana.

Opinion

Justice [Ingrid Gustafson](#) delivered the Opinion of the Court.

*1 ¶ 1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶ 2 Jeffrey Blodgett (Blodgett) appeals the Flathead County District Court's Order granting the State of Montana's motion

for summary judgment on his wrongful discharge from employment and whistleblowing complaint.

¶ 3 Blodgett began work for the State of Montana's Judicial Branch on October 19, 2015, as a Deputy Juvenile Probation Officer in the Twentieth Judicial District. The operative Montana Judicial Branch Personnel Policy and Procedure provides that new Judicial Branch employees are subject to a one-year probationary period. During his employment, Blodgett reported what he believed to be ethical and public policy violations committed by his supervisor, Barbara Monaco, Chief Juvenile Probation Officer (Monaco). Monaco informed Blodgett via letter dated October 6, 2016, of her decision to terminate his employment effective that same day. The letter explained the multiple reasons for Blodgett's termination, including his disruptive and defiant conduct. The letter further informed Blodgett that as a probationary employee, Montana law afforded him no grievance rights.

¶ 4 Blodgett did not file a claim with the Montana Human Rights Bureau (HRB). Instead, Blodgett filed suit in Flathead County District Court on September 26, 2017, alleging he was terminated in retaliation for whistleblowing in violation of the Wrongful Discharge from Employment Act (WDEA) and Montana Human Rights Act (MHRA). The State filed for summary judgment in November 2017 and the issues were fully briefed. The Court entered its order granting the State summary judgment on all claims on January 4, 2018. Blodgett appeals.

¶ 5 We review a district court's ruling on summary judgment de novo, using the same standards as the district court. We review a district court's resolution of issues of law such as statutory interpretation to determine whether they are correct. [Blehm v. St. John's Lutheran Hosp., Inc.](#), 2010 MT 258, ¶ 9, 358 Mont. 300, 246 P.3d 1024 (internal citations omitted).

¶ 6 Blodgett first alleges his termination violated the WDEA. Blodgett agrees he was terminated within his probationary period. The WDEA provides the exclusive remedy for wrongful discharge from employment, and preempts common-law remedies. [Sections 39-2-902, -913, MCA](#). The WDEA specifically provides that employment may be terminated for any reason or for no reason during a probationary period. [Section 39-2-904\(2\), MCA](#). The question is whether a whistleblower can be terminated in the probationary period.

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¶ 7 In *Blehm*, a terminated hospital employee argued an employee discharged during probation should still have the right to sue under the WDEA if she alleges that the discharge arose from a refusal to violate public policy or for reporting a violation of public policy. *Blehm*, ¶ 19. We affirmed summary judgment for the hospital because “[a]dopting Blehm’s argument would require this Court to substantially re-write critical provisions of the [WDEA], contrary to § 1-2-101, MCA.” *Blehm*, ¶ 20. Under *Blehm*, Blodgett’s WDEA whistleblower claims would fail because he was terminated as a probationary employee. *See also*, *Dundas v. Winter Sports, Inc.*, 2017 MT 269, 389 Mont. 223, 410 P.3d 177 (probationary seasonal ski resort employee who claimed whistleblower status properly discharged).

*2 ¶ 8 Blodgett also alleges wrongful termination for whistleblowing under § 49-2-301, MCA (part of the MHRA). However, he does not allege he was discharged for opposing discrimination as a member of a protected class (race, creed, religion, color, national origin, age, physical or mental disability, marital status, or sex). Section 49-2-303, MCA. Further, even if he had alleged discharge for membership in a protected class, Blodgett failed to first file a claim with the HRB as mandated by § 49-2-501, MCA. No facts

here suggest the exceptions for housing discrimination or collective bargaining units could apply. For all these reasons, Blodgett’s MHRA claim also fails.

¶ 9 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶ 10 Affirmed.

We concur:

JAMES JEREMIAH SHEA, J.

DIRK M. SANDEFUR, J.

BETH BAKER, J.

JIM RICE, J.

All Citations

394 Mont. 386, 427 P.3d 101 (Table), 2018 WL 4705831, 2018 IER Cases 362,559, 2018 MT 243N