

North Carolina Wrongful Discharge Claims May Not be based on Federal Public Policy or Constitution, Federal Court Rules

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October 15, 2015

A wrongful discharge claim under North Carolina law may not be based on federal public policy, including policy expressed in the federal Constitution, a federal district court has ruled. *Santifort v. Guy*, 4:14-cv-00225-F, DE # 34 (E.D. N.C. Sept. 8, 2015).

The court based its decision on finding a “consensus” among North Carolina’s intermediate courts, as the state’s highest court has not addressed the question.

After Donna Santifort, an Emergency Medical Technician, was terminated by her employer, she sued Wayne County, North Carolina, and several Wayne County officials alleging a state law claim against the County for wrongful discharge in violation of public policy, among other things. Santifort alleged that her termination violated public policy as expressed in the First Amendment to the federal Constitution. Wayne County moved to dismiss this claim on the grounds that, in failing to allege a violation of *North Carolina* state public policy, Santifort’s wrongful discharge claim failed to state a claim upon which relief could be granted.

The general rule under North Carolina law is that all employment is considered “at will,” and employers (or employees) may end the employment relationship for any reason.

North Carolina’s highest court, the North Carolina Supreme Court, in *Coman v. Thomas Mfg. Co.*, 325 N.C. 172, 381 S.E.2d 445 (1989), created an exception to the “at will” rule where an employer’s reason for ending the employment relationship is unlawful or contrary to public policy.

In *Santifort*, the federal district court recognized that the North Carolina Supreme Court left open the question of whether federal public policy could form the basis for a wrongful discharge claim when it first recognized the wrongful discharge cause of action. Since *Coman*, the North Carolina Supreme Court has not made any rulings to resolve whether *federal* public policy can form the basis of a North Carolina *state* wrongful discharge claim.

Accordingly, the district court determined it must rely on decisions of the North Carolina Court of Appeals, the state’s intermediate court, and federal district courts to predict how the North Carolina Supreme Court might decide the issue. In addition, the court recognized that an existing rule prohibits it from creating or expanding North Carolina public policy.

Operating under these guidelines, the court reviewed cases from lower North Carolina and federal district courts and identified a consensus rule: “[t]he public policy exception to the at-will employment doctrine is confined to the express statements contained within [North Carolina’s] General Statutes or [North Carolina’s] Constitution” (citing *Whiting v. Wolfson Casing Corp.*, 173 N.C. App. 218, 222, 618 S.E.2d 750, 753 (2005)). Indeed, the court noted that no court has ever held federal public policy to be a sufficient basis for a wrongful discharge claim under North Carolina law.

Accordingly, the court ruled that “a plaintiff may not ground a wrongful discharge on a violation of federal public policy, including the policy expressed in the [federal] Constitution” and granted Wayne County’s motion to dismiss Santifort’s wrongful discharge claim.

While employment law attorneys are waiting on the North Carolina Supreme Court to rule on this issue, it is clear lower North Carolina and federal district court judges are in agreement.

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