
LEGAL UPDATE

Legal Services Division



Ground Floor, State Capitol Building

Des Moines, Iowa 50319

515.281.3566

IOWA SUPREME COURT DECISION — PRIVATE EMPLOYER DRUG TESTING AND CIVIL REMEDIES

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

Deborah Ferguson v. Exide Technologies, Inc. and Fred Gilbert
Filed December 13, 2019, as Amended February 17, 2020
No. 18-1600

www.iowacourts.gov/courtcases/7956/embed/SupremeCourtOpinion

Factual and Procedural Background. Deborah Ferguson (Ferguson) was a “wet formation operator” for Exide Technologies, Inc. (Exide), whose job required her to lift car and tractor batteries from one location to another. Changes to Ferguson’s work duties in 2013 required her to increase the amount of lifting she was required to do and she began to experience intermittent pain in her elbows thereafter. By October 2016, Ferguson’s pain became so severe and constant that she could not continue working and she reported her pain to her supervisor. Ferguson was assigned lighter duty and was eventually sent to a doctor who diagnosed her with “tennis elbow” and informed her that she was required to take a drug and alcohol test pursuant to Exide’s drug and alcohol testing policies. Ferguson refused and her refusal was considered the same as failing the drug test. The following day, Exide terminated Ferguson for her refusal to take the drug and alcohol test.

Ferguson brought suit against Exide in state court, claiming she was wrongfully terminated because Exide violated statutory workplace drug-testing provisions pursuant to Iowa Code section 730.5, and that her discharge violated public policy. Exide admitted that it violated the drug and alcohol testing statute and that Ferguson’s termination was unlawful; however, Exide filed a motion for summary judgment arguing that Ferguson’s common law tort claim in violation of public policy was preempted by the cause of action provided in Iowa Code section 730.5. Exide’s motion was denied. Ferguson had also filed a motion for summary judgment as to both of her claims, which the court granted, and the case proceeded to trial on the matter of damages where a jury awarded Ferguson \$45,606.40 in lost wages and benefits and \$12,000 in emotional distress damages. Ferguson also requested attorney fees and costs pursuant to Iowa Code section 730.5; however, the district court only awarded fees for the portion of the work in the case devoted to Ferguson’s statutory claim. Exide then filed unsuccessful motions for directed verdict and for judgment notwithstanding the verdict.

Exide thereafter filed an appeal to the Iowa Supreme Court (Court) from the denial of its motions and from the amount of attorney fees the district court awarded.

Issue. Whether Iowa Code section 730.5 precludes an aggrieved employee from bringing a common law wrongful-discharge claim.

Holding. In a 7-0 decision, the Court held that Iowa Code section 730.5 precluded an aggrieved employee from bringing a common law wrongful-discharge claim. The Court also held that the district court did not abuse its discretion in determining attorney fees and costs. As such, the Court affirmed in part, reversed in part, and remanded the case to the district court for further proceedings consistent with the opinion.

Analysis. The Court recognized the statute at issue, Iowa Code section 730.5, provides a statutory scheme for drug and alcohol testing of current and potential employees, provides for a civil cause of action when the statute is violated, and is the source of the policy for Ferguson's common law wrongful-discharge claim.

The Court noted that employment in Iowa is generally at-will, meaning that an employee may be fired for any reason or no reason at all. However, a common law wrongful-discharge claim in violation of public policy is a recognized exception to the at-will doctrine, which provides a remedy for conduct that violates a legislatively declared public policy. There are three primary situations when an action for wrongful discharge in violation of public policy is available, which include "retaliation for performing an important and socially desirable act, exercising a statutory right, or refusing to commit an unlawful act." An employee filing such an action must also prove the following four elements: the existence of a clearly defined and well-recognized public policy that protects the employee's activity, that this public policy would be undermined by the employee's discharge from employment, that the employee engaged in the protected activity and this conduct was the reason for the employee's discharge, and that the employer had no overriding business justification for the discharge. The Court found that since the parties all agreed that these four elements were met, the only issue before the Court was whether the remedies already provided in Iowa Code section 730.5 foreclosed Ferguson's common law claim.

The Court stated that a statute may or may not preclude a common law wrongful-discharge claim. In cases where the Court has found preclusion, "the legislature has provided a comprehensive scheme for dealing with a specified kind of dispute..." However, in cases where the Court has not found preclusion, certain permissive language was included in the underlying statute. Moreover, the Court found that non-preclusion cases involved statutes providing administrative remedies rather than court remedies. Administrative remedies do not provide the level of protection, control, and right to process involved in the court system, which justifies the continued existence of a common law wrongful-discharge claim when the only remedy statutorily provided is an administrative remedy.

In noting that the issue is one of first impression, the Court was guided by the original purpose of the common law wrongful-discharge claim in violation of public policy. That original purpose was to provide a court remedy to enforce legislatively declared public policy. In keeping with this purpose, the Court noted that when the legislature includes a right to civil enforcement in the very statute that contains the public policy a common law claim would protect, the common law wrongful-discharge claim becomes unnecessary given that the "legislature has weighed in on the issue and established the parameters of the governing public policy." The legislature is free to modify such remedies if it considers them to be inadequate; however, the Court opined that it did not need to provide an alternative court remedy when the legislature has already provided one. Therefore, the Court held that when a civil cause of action is provided by the legislature in the same statute that creates the public policy to be enforced, the civil cause of action is the exclusive remedy for a violation of that statute. The civil cause of action provided in Iowa Code section 730.5 is thus the exclusive remedy for a violation of that statute and the district court's order denying Exide's motions to dismiss Ferguson's common law claims were reversed. The district court was thereby required to enter judgment in favor of Exide on Ferguson's common law wrongful-discharge claim, vacate those portions of the jury's damages award that would be available only under a common law tort theory, and uphold the portion of the jury's award that would be available under Iowa Code section 730.5.

Furthermore, the Court found that the district court's award of attorney fees was not an abuse of discretion and affirmed the attorney fee judgment. The Court described how district courts should

proceed when attorney fees are authorized for only one portion of a lawsuit, that is, when a party can only recover for the portion of the litigation attributable to the cause of action that permitted an award of attorney fees. The Court stated the district court should make an appropriate reduction in attorney fees for unrelated time spent on claims for which attorney fees are not recoverable and, if the plaintiff only obtained partial or limited success on the claim for which the legislature has authorized attorney fees, the district court must consider the reasonableness of the hours expended in light of this ultimate result. Noting that the district court is considered an expert in what constitutes reasonable attorney fees and is afforded wide discretion, the Court held that the district court in this case did not abuse its discretion in its determination of attorney fees and costs. As such, the district court's award of attorney fees and costs to Ferguson was affirmed.

LSA Staff Contact: Rachele Hjelmaas, 515.281.8127, rachele.hjelmaas@legis.iowa.gov

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