

STATE OF MICHIGAN
COURT OF APPEALS

JOHN LOGUE and LAVERNE DAKE,

Plaintiffs-Appellees,

v

CRANKSHAFT MACHINE COMPANY,

Defendant,

and

AVIS INTERNATIONAL CORPORATION,

Defendant-Appellant.

JOHN LOGUE and LAVERNE DAKE,

Plaintiffs-Appellants,

v

CRANKSHAFT MACHINE COMPANY and
AVIS INTERNATIONAL CORPORATION,

Defendants-Appellees.

Before: Fitzgerald, P.J., and MacKenzie and A. P. Hathaway*, JJ.

PER CURIAM.

UNPUBLISHED

April 1, 1997

No. 184267

Jackson Circuit Court

LC No. 92-061448-CL

No. 184658

Jackson Circuit Court

LC No. 92-061448-CL

* Circuit judge, sitting on the Court of Appeals by assignment.

Plaintiffs John Logue and Laverne Dake were long time employees of Crankshaft Machine Company [CMC], a wholly-owned subsidiary of Avis International Corporation [Avis]. Following their dismissals, plaintiffs brought suit claiming that defendants violated the Elliott-Larsen Civil Rights Act [ELCRA], MCL 37.2101 *et seq.*; MSA 3.548(101) *et seq.*, by singling out plaintiffs for termination on the basis of age. Plaintiffs also alleged that they were wrongfully discharged in breach of their just-cause employment contracts. A jury returned a verdict in favor of Logue for wrongful discharge as against Avis, but in favor of both defendants with regard to all of Dake's claims and Logue's remaining claim. In Docket No. 184267, Avis appeals as of right from the jury verdict in favor of Logue. In Docket No. 184658, both plaintiffs appeal as of right from the same judgment, challenging the court's failure to provide the jury with written instructions. We affirm the jury verdict in favor of defendants on defendant Dake's claims and reverse the trial court's denial of defendants' motion for JNOV with regard to the jury verdict awarding Logue damages for wrongful discharge.

We will address plaintiffs' argument on appeal first. In Docket No. 184658, plaintiffs assert that the trial court abused its discretion when it failed to provide the jury with a written copy of the jury instructions as provided by MCR 2.516(B)(5). We disagree. Although plaintiffs' brief, which was handed to the court on the first day of trial, suggested that the jurors be allowed to "take . . . [the jury instructions] back to the jury room with them," plaintiffs did not alert the court to their request for written instructions or ask for a ruling on their request until after the jury left the courtroom to commence deliberations. Nor had a copy of the instructions been prepared for the jurors' use. Moreover, jurors were free to ask for a written copy of the instructions or request to have them read back if there were any instructions that were not understood. Under these circumstances, reversal is not warranted.

In Docket No. 184267, Avis argues that the trial court erred when it denied Avis's motions for summary disposition, directed verdict, and JNOV. We agree with Avis to the extent that it contends it was entitled to a directed verdict or judgment notwithstanding the verdict because reasonable minds could not differ on the issue of whether just cause existed for Logue's termination. "[B]ona fide economic reasons for discharge constitute 'just cause' under *Toussaint*." *McCart v J Walter Thompson USA, Inc*, 437 Mich 109, 114; 469 NW2d 284 (1991). A plaintiff has no cause of action for wrongful discharge when his position is eliminated for bona fide economic reasons. *McCart, supra* at 114; *Neubacher v Globe Furniture Rentals, Inc*, 205 Mich App 418, 420-421; 522 NW2d 335 (1994); *Featherly v Teledyne Industries, Inc*, 194 Mich App 352, 364; 486 NW2d 361 (1992). Here, Logue admitted that his position was permanently eliminated as a direct consequence of CMC's serious financial difficulties. Plaintiffs failed to introduce any evidence challenging "the validity of defendant's proofs that adverse business conditions existed and that the elimination of plaintiff's position was necessitated by those conditions." *McCart, supra* at 114-115, *Featherly, supra* at 364. Moreover, implicit in the jury's rejection of Logue's age discrimination claim is the conclusion that defendants' claimed economic reasons for dismissal were not pretextual. See *Featherly, supra* at 358. We therefore conclude that the trial court abused its discretion when it denied defendant Avis's motions for directed verdict and JNOV. Because we find that reversal is required on this basis, it is unnecessary for us to address defendants' remaining issues on appeal.

Docket No. 184658 is affirmed. Defendants being the prevailing parties, they may tax costs pursuant to MCR 7.219. Docket No. 184267 is reversed. Defendant Avis being the prevailing party, it may tax costs pursuant to MCR 7.219.

/s/ E. Thomas Fitzgerald
/s/ Barbara B. MacKenzie
/s/ Amy P. Hathaway