

Third District Court of Appeal

State of Florida

Opinion filed July 24, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-639
Lower Tribunal No. 16-7335

Juan Iglesias,
Appellant/Cross-Appellee,

vs.

City of Hialeah,
Appellee/Cross-Appellant.

An Appeal from the Circuit Court for Miami-Dade County, David C. Miller,
Judge.

Gallup Auerbach, and Dana M. Gallup (Hollywood), for appellant/cross-
appellee.

Alfredo Marquez-Sterling, Assistant City Attorney, for appellee/cross-
appellant.

Before SALTER, FERNANDEZ and LINDSEY, JJ.

FERNANDEZ, J.

Juan Iglesias appeals the trial court's Final Judgment denying recovery of
noneconomic damages under the Florida Public Whistleblower Act ("FPWA"). The

City of Hialeah (“City”) cross-appeals the same Final Judgment denying the City’s motion for summary judgment. Because the language in the FPWA does not bar noneconomic damages, we reverse. We affirm the denial of the City’s motion for summary judgment.

Iglesias is a member of the Hialeah Police Department. On October 21, 2015, Iglesias sent a letter to the City’s Chief of Police, Sergio Velazquez, and Mayor Carlos Hernandez after receiving disciplinary notice for not meeting traffic enforcement standards. Iglesias alleged that the police department had continued enforcing ticket quotas, now banned by the Florida legislature. He sent another letter re-alleging the same on January 7, 2016, after receiving other disciplinary notices. However, the Mayor approved the recommended disciplinary actions against Iglesias. The Personnel Board of Hialeah upheld the actions but reduced them to a ten-hour suspension.

On March 23, 2016, Iglesias sued the City, alleging that it violated the FPWA by retaliating against him when he wrote to the Mayor about the City’s continuance of ticket quotas. On the morning of the trial, the trial judge ruled that Iglesias would not be permitted to seek noneconomic compensatory damages. Given that ruling, Iglesias and the City reached an agreement, and the trial court entered a Final Judgment awarding Iglesias \$305.75 in lost wages, allowing Iglesias to appeal the

court's ruling not allowing for noneconomic damages and for the City to appeal the court's denial of its motion for summary judgment.

We have jurisdiction pursuant to Florida Rule of Appellate Procedure 9.030(b)(1). Statutory interpretation is reviewed *de novo*. Dockswell v. Bethesda Mem'l Hosp., Inc., 210 So. 3d 1201, 1206 (Fla. 2017). A remedial statute like the FPWA should be construed liberally in favor of the party seeking relief. See Irven v. Dep't of Health & Rehab. Servs., 790 So. 2d 403, 405 (Fla. 2001).

The remedies section of the FPWA states:

(9) RELIEF-- In any action brought under this section, the relief must include the following:

(a) Reinstatement of the employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief.

(b) Reinstatement of the employee's full fringe benefits and seniority rights, as appropriate.

(c) Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action.

(d) Payment of reasonable costs, including attorney's fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.

(e) Issuance of an injunction, if appropriate, by a court of competent jurisdiction.

(f) Temporary reinstatement to the employee's former position or to an equivalent position

§ 112.3187(9), Fla. Stat. (2002).

The FPWA's language is a floor, rather than a ceiling, on the types of relief that can a party can seek. See O'Neal v. Fla. A&M Univ. ex rel. Bd. of Trs. for Fla. A&M Univ., 989 So. 2d 6, 14 n.5 (Fla. 1st DCA 2008). In its footnote, the O'Neal court said, "The Act provides that relief 'must include' the remedies set out in the statute, but does not limit relief to those remedies." Id. Here, the City argues that it would require judicial engrafting to include noneconomic damages to the FPWA. However, it would also require judicial engrafting to take the City's position to add "must only include" to the statute. The FPWA mandates that an award include the remedies explicitly identified within the statute, but does not expressly exclude other recoverable damages, thereby allowing other forms of relief as may be appropriate under applicable law.

We thus reverse the trial court's Final Judgment with respect to its denial of recovery of noneconomic damages under the FPWA and remand the case for a trial on Iglesias's noneconomic compensatory damages. We affirm, without further comment, the Final Judgment with respect to the trial court's denial of the City's motion for summary judgment.

Affirmed in part, reversed in part; remanded for proceedings consistent with this opinion.