

IN THE SUPREME COURT OF THE STATE OF NORTH DAKOTA

DAVID A. RAMIREZ,
Plaintiff, *Appellant*

}
}

Vs.

REPLY BRIEF OF ~~APPELLEE~~ *Appellant*

}

WALMART Store 1649,
651
Defendant / Appellee

Defendant.

Case No. 47 2017 CV 651
SC# 20180027

Appeal from ORDER ON MOTION TO DISMISS in DISTRICT COURT

COUNTY OF STUTSMAN, SOUTHEAST JUDICIAL DISTRICT.

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B. TABLE OF AUTHORITIES and CITATIONS .

- LAW 34 01 20

- LAW 28 27 02
- U.S. Equal Employment Opportunity Commission (EEOC).
- Letter sent to: Global Ethics.

STATEMENT OF JURISDICTION

[1]. Law 28 - 27 - 02 (1)

CHAPTER 28 - 27

APPEALS TO SUPREME COURT

28 - 27 - 01. Appeals to supreme court.

A judgment or order in a civil action or in a special proceeding in any of the district courts may be removed to the supreme court by appeal as provided in this chapter.

28 - 27 - 02. What orders reviewable.

The following orders when made by the court may be carried to the supreme court:

1. An order affecting a substantial right made in any action, when such order in effect determines the action and prevents a judgment from which an appeal might be taken;

(1) In effect, the order issued by the district court to dismiss the law 34 01 20. (for lack of knowledge of this law.) Affects substantive rights, and worse, fundamental rights. Rights such as:

- The right to work.
- The right to the good name of the worker.
- The right to be duly remunerated.
- The right to respect.

[2] Law 28 - 27 - 02. and 28 - 27 - 02(1).

28 - 27 - 02. What orders reviewable.

The following orders when made by the court may be carried to the supreme court:

1. An order affecting a substantial right made in any action, when such order in effect determines the action and prevents a judgment from which an appeal might be taken;

2. A final order affecting a substantial right made in special proceedings or upon a

summary application in an action after judgment;

3. An order which grants, refuses, continues, or modifies a provisional remedy, or grants, refuses, modifies, or dissolves an injunction or refuses to modify or dissolve an injunction, whether such injunction was issued in an action or special proceeding or pursuant to the provisions of section 35 - 22 - 04, or which sets aside or dismisses a writ of attachment for irregularity;

4. An order which grants or refuses a new trial or which sustains a demurrer;

5. An order which involves the merits of an action or some part thereof;

6. An order for judgment on application therefor on account of the frivolousness of a demurrer, answer, or reply; or

7. An order made by the district court or judge thereof without notice is not appealable, but an order made by the district court after a hearing is had upon notice which vacates or refuses to set aside an order previously made without notice may be appealed to the supreme court when by the provisions of this chapter an appeal might have been taken from such order so made without notice, had the same been made upon notice.

28 - 27 - 02.1. Order shall describe papers on which made.

Superseded by N.D.R.App.P., Rule 49.

(1) Walmart's lawyer writes: "Generally, an order of dismissal without prejudice is not an appealable order under NDCC 28 - 27 - 02." and in the writing below, contradicts itself.

(Page 1.) I have downloaded this law from the internet, from this address:

www.ndcourts.gov/ndlshc copied above, and I find nothing about what the lawyer wrote.

(This is undue manipulation of the law 28 27 02.) On the contrary, this law approves the appeal as a right. !!!

[3] answering numeral 3

- (1) Where is my contract termination (officially), with Walmart Inc. on April 18, 2017? Well, if Walmart, my employment contract ended, on that date, why the Walmart lawyer, did not enter the official document to the court?
- (2) The Walmart lawyer is omitting Open Door 1 (Jamestown ND), Open Door 2. (Fargo, ND), Open Door 3 (Main Office) and Walmart Global Ethics. These offices have the authority and power to solve all kinds of problems that occur with employees. (To that end, they were created.) Therefore, it is incorrect to say, that my dismissal officially, was on that date.
- (3) The last date, which I had communication with Walmart Global Ethics, is registered in the COMPLAINT, (Appendix page 2), on August 27, 2017. And it is from this date, that the court can run 180 days. Not before, because I was in compliance to follow the "regular conduit." Through Walmart's internal offices.
- (4) The district court, in its order to dismiss the law 34 01 20, said nothing, in this regard. Why is the lawyer writing something that the court did not say?

STATEMENT OF ISSUES FOR APPELLATE REVIEW

[4] answering numeral 4

- (1) To say that the court acted correctly in dismissing law 34 01 20 is incorrect. Through the authority of: U.S. Equal Employment Opportunity Commission (EEOC) (Appeal, page 13. numeral F.) I have shown that the order is wrong.

STATEMENT OF THE CASE

[5] [6] [7] [8] and [9]. Answering.

- (1) For an employee, who represents himself, (Pro Se), the court has a guide material, and when you read the part of how to fill a COMPLAINT, it says clearly, summarize in short

words what is going to report. and so it was done.

- (2) I believe the court guides, for the Pro Se. and this has its logic. If in the COMPLAINT, say, put everything you have. This would be crazy. Because the Pro Se, they would also have to take their eyewitnesses. Can you imagine CLERK, also taking statements from witnesses? Not even in a whole day, could that be done. !!!
- (3) In numeral nine [9], Walmart's attorney intends to exclude proof material. As if the ANSWER BRIEF TO MOTION FOR DISMISS, not worth. and also the appeal.

Law 34 01 20, is a PENAL Law, within the labor. !!! And because it is a criminal law, all evidence, that is provided, before a judge, take a verdict, any evidence that helps clarify what kind of crime is being committed. It is well received.
- (4) In the order of the district court, the judge does not say anything, about excluding the evidence, documents or photos, nor does he say because he is rejecting the law 34 01 - 20. !!!
- (5) What is the lawyer's desire to exclude evidence? Does it pretend that the violations of the law, which are being denounced, remain in complete impugncy? I remind you that obstructing, hindering, opposing and concealing evidence, in a criminal case, is a crime. !!!
- (6) In the COMPLAINT, appendix page 4. This the complaint about violation of law, where the law 34 01 20 1. a. he says, that with only the suspicion of violation of law, it is enough to file a complaint with the court. and for its part, this law obliges the court to initiate the proper investigation. (Investigation that will culminate, when the court has, all the necessary elements of judgment, to establish a verdict.)
- (7) I worked honestly for Walmart, and in what I found out, I documented, I informed myself, of the dismissed associates, I found no labor faults, on their part. The violation of law comes from the Walmart managers. where they invent lies, to justify the destitute of

them. There is also another way to confirm this:

- (8) Walmart's lawyer insists that serial dismissals is a protected action. He does not know in the contradiction that has entered. Because a protected action also protects employees from being properly remunerated at the time of dismissal, and also in the system they are treated as a dismissal without just cause. But this was not what happened with the employees of Walmart in the store 1649. Because the asosados were recorded in the system, with a false causal. (lie invented by managers) and with it, not giving them the proper remuneration. (This constitutes a robbery.)
- (9) Another proof of confirming this is through the same Walmart lawyer. Who entered the district court, a motion to dismiss the case. and did not enter any type of evidence, or evidence, or in favor, or against. nor did he present proof that serial dismissals were authorized. !!!

ARGUMENT

[10] Answering.

The Walmart lawyer writes that I failed to claim for relief. and he repeats it several times. but he does not write, in what I failed. !!! The district court did not write in which I failed. !!!

Therefore, the need to bring an authority, the (U.S. Equal Employment Opportunity Commission (EEOC)). Appendix, page 13, numerals 1, 2 and 3. To demonstrate, that both the Walmart lawyer and the district court judge are in complete error, and with all the respect they deserve, of what is retaliation and violation of law.

STANDARD OF REVIEW

[11] and [12] Answering.

The law brought by Walmart's attorney, N.D. R. Civ. P. 12 (b) (vi) in the motion, it is useless, if it is not properly supported with evidence and evidence. Such evidence, which never contributed the lawyer. For this reason, it is so important that the law 34 01 20, because it is

criminal, obliges the court to initiate the proper investigation. Even so, although there is little evidence, (34 01 20 1. a. ... suspected violation of law ...). (Appendix, page 18).This law obliges the court to move from being passive to an active court. (This is to obtain all the evidence, evidence and information from eyewitnesses, and everything the court deems necessary.)

[13] [14] [15][16] and [17] Answering

- (1) The lawyer of Walmart, has not been able to understand, that there is a very marked difference, between dismissing workers, and another very different one, abusing those workers, becoming a violation of law. It is here, right here, where law 34 01 20 comes into operation.
- (2) The dismissed employees are not replaced by others. The witness has been very clear:
"... if they hire 15 people, in an approximate period of 5 months, the managers of stores 1649, have laid off 21 associates." Appendix, page 29, numeral 17.

CONCLUSION

[18] Answering.

The lawyer of Walmart, forgets that the law 34 01 20 is a penal law within the labor, that acts on a retaliation against an employee, for reporting a violation of law. (the violation of law, is not a protected activity. !!!)

Therefore, I request, before the Supreme Court, respectfully, dismiss the order of the district court.

David Ramirez

APRIL 5, 2018

David A. Ramirez

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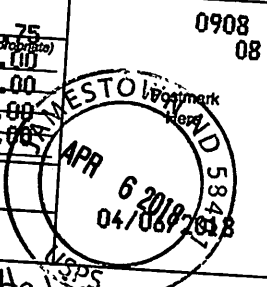
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