

April 25, 2002

COURT OVERTURNS \$23 MILLION PUNITIVE DAMAGES AWARD

(Rhyne v. K-Mart Corp.)

The North Carolina Court of Appeals, at the urging of the Washington Legal Foundation (WLF), overturned a \$23 million punitive damages award imposed on K-Mart Corporation, ruling that legislation limiting such awards to \$250,000, or three times the compensatory damages, was not unconstitutional.

This case stems from an altercation between two security guards hired by K-Mart and a married couple who had been walking in the parking lot near K-Mart's dumpsters. The guards mistakenly believed that the couple had been rummaging through the dumpsters and physically confronted the couple. The couple sued the guards and K-Mart for various injuries. At trial, the jury found K-Mart liable and awarded the plaintiffs approximately \$19,000 combined in compensatory damages.

During the punitive damages phase of the proceedings, the plaintiffs' attorney argued that K-Mart should be assessed punitive damages because of its unwillingness to voluntarily turn over certain documents during discovery. Despite the judge's admonition that this argument landed plaintiffs' counsel on "perilous ground," the jury was allowed to base its deliberations on this discovery-related conduct. The jury awarded \$23,000,000 in punitive damages to the two plaintiffs, an amount more than 1,000 times the actual damages in the case. Conceding that he was bound by a state punitive damages cap, the judge reduced that award to \$500,000. The plaintiffs appealed the judge's decision, arguing that the statutory cap violated the state constitution and asking the court to restore the original award of \$23 million. K-Mart cross-appealed, challenging the legality of imposing punitive damages based on discovery-related conduct and claiming that the original award, if restored, would violate its rights under the federal constitution.

In its brief filed with the court, WLF raised three arguments. First, it argued that, no matter how the court of appeals resolves the plaintiffs' challenge to the state punitive damages cap, K-Mart's federal claim retains its vitality. That claim is premised on the U.S. Supreme Court's determination that a "grossly excessive" punitive damage award infringes a defendant's right to due process of law under the Fourteenth Amendment to the U.S. Constitution. WLF asserted that an award of \$23,000,000 in punitive damages on the record of this case manifestly violates that principle. Second, WLF demonstrated that K-Mart's federal claim stands independent of any state constitutional challenge raised by the plaintiffs.

WLF cautioned that even if the court of appeals were to strike down the North Carolina punitive damage cap as unconstitutional under *state* law, K-Mart's *federal* constitutional claim raised in defense of the original punitive damage award would prevent the court from automatically restoring that award if it is "grossly excessive." Third, WLF pointed out that a decision restoring the \$23 million award on any ground would deny K-Mart's federal constitutional rights and that, consequently, the U.S. Supreme Court would ultimately retain jurisdiction to review and reverse that award.

The North Carolina Court of Appeals upheld the statutory cap of \$250,000 for punitive damages. As the court properly noted, punitive damages are designed to punish the tortfeasor, a right "that resides with the State. Thus, no individual possesses the right to punitive damages as being that person's property." The court further noted that since the legislature could abolish the right to assess any punitive damages, that power "necessarily carries with it the power to limit the punishment." Finding that the cap violated no constitutional rights of the plaintiffs, the court upheld the law.

This case is an important decision in the area of civil justice reform, and will likely be appealed to the North Carolina Supreme Court. The Washington Legal Foundation is a public interest law and policy center with supporters in all fifty states. It devotes a significant portion of its resources to defending and promoting the principles of free enterprise, civil justice reform, and individual rights.

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