

Filed 5/23/19 Blasdell v. Space Exploration Technologies CA2/2

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

JASON BLASDELL,

Plaintiff and Appellant,

v.

SPACE EXPLORATION
TECHNOLOGIES, CORP.,

Defendant and
Respondent.

B285998

(Los Angeles County
Super. Ct. No. BC615112)

APPEAL from a judgment of the Superior Court of Los Angeles County. William F. Fahey, Judge. Affirmed.

Shegerian & Associates, Carney R. Shegerian and Jill P. McDonnell for Plaintiff and Appellant.

Orrick, Herrington & Sutcliffe, Lynne C. Hermle, Julia C. Riechert, Elizabeth R. Moulton and Brian P. Goldman for Defendant and Respondent.

* * * * *

An avionics test technician sued his former employer for wrongful termination in violation of public policy and a jury returned a verdict for the employer. On appeal, the technician challenges dozens of the trial court's evidentiary rulings, assails several other rulings, and argues that the court's time limits on the presentation of evidence violated due process. None of his arguments has any merit or otherwise warrants disturbing the jury's verdict. Accordingly, we affirm the judgment.

FACTS AND PROCEDURAL BACKGROUND

I. Facts

A. *SpaceX*

Defendant Space Exploration Technologies, Corp. (SpaceX) develops and builds rockets. SpaceX does not sell its rockets; instead, it offers the *service* of launching cargo and personnel into space. In 2011, NASA became one of SpaceX's customers.

SpaceX's engineers develop parts for their rockets, and SpaceX's 30 to 40 avionics test technicians subject parts with electronic components to a battery of tests aimed at assessing each part's functionality, visual appearance and resistance to the rigors of space flight (so-called "shock testing"). The engineer responsible for developing each part, sometimes with the aid of technical writers, drafts written instructions as to how each test should be conducted. Following these written instructions, the technicians "perform[] [the] test" and "record[] [the] test results." If a technician encounters a problem during testing, he or she may (1) file an "issue ticket" detailing a problem with the part or the written instructions, or (2) make a proposed "redline" correction to the instructions. The responsible engineer then decides what, if anything, to do with that feedback. All testing, feedback and responses are tracked in a database called the

“WARP Drive.” Once a part passes all tests in the avionics lab, it is subjected to further testing by SpaceX’s quality assurance personnel and by other SpaceX personnel once that part is combined with other component parts.

SpaceX has promulgated an ethics policy for its employees. The policy states that SpaceX “provides only complete, accurate and truthful information to its customers” and the company “[d]oes not make false statements.” The policy further provides that “[d]isregard of the law will not be tolerated.”

B. *Plaintiff’s employment with SpaceX*

On November 1, 2010, Jason Blasdell (plaintiff) started working in SpaceX’s avionics lab as an avionics test technician. His employment was “at will.”

Although plaintiff started out as a well-regarded employee, that began to change in late 2011. Around that time, plaintiff started to find that many of the engineers’ written instructions for testing parts could not be followed as written; the deficiencies were so bad, plaintiff believed, that they required him to file issue tickets and to “stop most of the work that [he] was working on.” Plaintiff’s newfound concern greatly slowed his productivity. While most avionics test technicians completed anywhere from one to seven tests per shift, plaintiff was barely able to complete one and was rapidly falling behind in his assignments. He dropped to the “bottom 10 percent” of test technicians.

As plaintiff’s supervisors would urge him to be less “fixated” on the “minutiae” of the instructions, plaintiff would become “aggressive” and “loud” and sometime raise his voice. He even told his supervisors that *his* “main job was to watch over” and “monitor[]” the supervisors.

Toward the end of the summer of 2013, plaintiff engaged in conduct that ultimately resulted in one of his supervisors issuing him a verbal warning. That supervisor had been instructing other avionics test technicians on how to test a particular part using the written instructions when plaintiff interrupted and, in an “insubordinate and disrespectful” tone, told the supervisor that the instructions were deficient because they did not say how long the technician should wait for the test equipment to finish its analysis of the part. After the supervisor informed the other technicians that the instructions were fine, plaintiff later remarked to him that the supervisor’s testing was “all bullshit” because he “wasn’t following the [written] procedure.” That supervisor reported the verbal warning, including that plaintiff was being “argumentative” and “insubordinate,” to SpaceX’s human resources staff. Another supervisor also informed human resources that plaintiff was being insubordinate, and further reported on plaintiff’s lack of efficiency and productivity.

SpaceX fired plaintiff on April 1, 2014.

II. Procedural Background

A. Complaint

On April 1, 2016, plaintiff sued SpaceX for (1) wrongful termination in violation of public policy, (2) whistleblower retaliation in violation of Labor Code section 1102.5, and (3) defamation.¹ With respect to the first two claims, plaintiff alleged that SpaceX had a “culture” of (1) “ignoring procedures and deviating from protocols in order to pass tests through and not hold up production,” and (2) “falsify[ing]” documentation “to

¹ Plaintiff also sued two of his former supervisors, but later dismissed them.

make it look like [technicians] followed specific testing requirements when in fact [they] had not.”

B. *Summary judgment / adjudication*

SpaceX moved for summary judgment and/or summary adjudication on all of plaintiff’s claims. In his opposition to the motion, plaintiff for the first time articulated that he was fired in retaliation for reporting a violation of federal law—namely, that any “deviat[ion] from . . . [the] written test procedures” amounted to “falsely representing that such procedures were being successfully completed,” and hence violated title 18 of the United States Code, section 38.² Among other things, that provision makes it a crime to “falsif[y] or conceal[] a material fact concerning any . . . space vehicle part” or “make[] . . . any materially false . . . record . . . concerning any . . . space vehicle part.” (18 U.S.C. § 38(a).)

The trial court granted SpaceX’s motion as to plaintiff’s defamation claim, but denied the motion as to his remaining claims.³ However, because the claim for wrongful termination in violation of public policy must be “specifically tethered” to a violation of “statutory or constitutional provision,” the court ruled that plaintiff’s remaining claims were invalid to the extent they were grounded in “complaints about personnel issues and work

² Plaintiff also for the first time alleged that the failure to follow the written testing instructions constituted unfair competition in violation of Business and Professions Code section 17200, but the trial court rejected this as a basis for proceeding and plaintiff does not challenge that ruling on appeal.

³ Plaintiff does not challenge the trial court’s dismissal of his defamation claim on appeal.

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