

Commonwealth Of Kentucky

Court of Appeals

NO. 2001-CA-001475-MR

ROBIN CAUDILL AND DAVID CAUDILL

APPELLANTS

v. APPEAL FROM CARTER CIRCUIT COURT
HONORABLE SAMUEL C. LONG, JUDGE
ACTION NO. 96-CI-00086

INTERNATIONAL BROTHERHOOD OF
FIREMEN AND OILERS

APPELLEE

OPINION

AFFIRMING

** ** *

BEFORE: GUIDUGLI, McANULTY, AND TACKETT, JUDGES.

McANULTY, JUDGE. Robin Caudill and David Caudill (hereinafter appellants) appeal the order of the Carter Circuit Court which granted the motion for summary judgment of appellee International Brotherhood of Firemen and Oilers. Appellants claimed below that appellee union was liable for an assault on them during a strike at Cook Family Foods because it ratified a course of conduct of violence in the strike prior to and subsequent to the assault. Appellee union denied that the

person who committed the assault was an agent of the union -- he denied being a member of the union, being involved in organizing the union or receiving benefits from the union. He denied acting at the direction of the union, and asserted that the union did not approve of his conduct. Appellants responded that a union steward was also involved in the altercation, and that the atmosphere was one of ratification and encouragement of the striking workers' violence. The trial court granted the motion for summary judgment. After a review of the record, we affirm.

Unions may only be held responsible for the authorized or ratified actions of their officers and agents. United Mine Workers of America v. Eastover Mining Co., Ky., 551 S.W.2d 245, 247 (1977). The complaining parties must establish not only that individual workers committed irresponsible or violent acts, but also that in some way the union acting through its officers or agents initiated or encouraged or aided and abetted or ratified the prohibited conduct. Id.

The scope of review in summary judgment cases is two-fold; we review whether the trial court properly found: (1) that there was no genuine issue as to any material fact; and (2) that the appellee was entitled to judgment as a matter of law.

Sexton v. Taylor County, Ky. App., 692 S.W.2d 808, 809-10 (1985). The trial court in this case granted the summary judgment on the basis that appellants failed to show an agency

relationship between the striking employees involved in the altercation with appellants and the appellee union. The trial court further found that even if it were assumed that an agency relationship existed, there was no showing that the union "incited, encouraged, aided and abided, or ratified their conduct in the Caudill altercation."

We agree with this finding and affirm the grant of summary judgment in this case. There was no showing that the union supported, incited or ratified the altercation between appellants and Rusty Kelly in any way. The presence and involvement of William Bailey, a union steward, does not establish that the union incited or ratified Kelly's conduct. UMW v. Eastover, supra. Moreover, we agree that the fact that the circuit court found the union in contempt for its connection with previous acts of violence in the course of this strike, Cook Family Foods v. International Brotherhood of Firemen and Oilers, et al., No. 93-CI-309, by itself does not show that there was any encouragement or ratification of this incident. Therefore, if there is no question of union involvement in this isolated altercation, there is no genuine issue of material fact. We find that the trial court properly granted the motion for summary judgment.

ALL CONCUR.

BRIEF FOR APPELLANT:

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Lexington, Kentucky

BRIEF FOR APPELLEE:

David Mussetter
Ashland, Kentucky