

1 of 6 DOCUMENTS

ANTHONY WHYTE¹ vs. SUFFOLK COUNTY SHERIFF'S DEPARTMENT & another.²

¹ Individually and on behalf of all others similarly situated.

² Commonwealth of Massachusetts.

16-P-751.

APPEALS COURT OF MASSACHUSETTS

91 Mass. App. Ct. 1124; 2017 Mass. App. Unpub. LEXIS 565

May 24, 2017, Entered

NOTICE: SUMMARY DECISIONS ISSUED BY THE APPEALS COURT PURSUANT TO ITS RULE 1:28, AS AMENDED BY 73 MASS. APP. CT. 1001 (2009), ARE PRIMARILY DIRECTED TO THE PARTIES AND, THEREFORE, MAY NOT FULLY ADDRESS THE FACTS OF THE CASE OR THE PANEL'S DECISIONAL RATIONALE. MOREOVER, SUCH DECISIONS ARE NOT CIRCULATED TO THE ENTIRE COURT AND, THEREFORE, REPRESENT ONLY THE VIEWS OF THE PANEL THAT DECIDED THE CASE. A SUMMARY DECISION PURSUANT TO RULE 1:28 ISSUED AFTER FEBRUARY 25, 2008, MAY BE CITED FOR ITS PERSUASIVE VALUE BUT, BECAUSE OF THE LIMITATIONS NOTED ABOVE, NOT AS BINDING PRECEDENT. SEE *CHACE V. CURRAN*, 71 MASS. APP. CT. 258, 260 N.4 ,881 N.E.2d 792 (2008).

PUBLISHED IN TABLE FORMAT IN THE MASSACHUSETTS APPEALS COURT REPORTS.

DISPOSITION: Judgment affirmed.

CORE TERMS: wage laws, inmate, detainee, prison, house of correction, minimum wages, breach of contract, quantum meruit, immigration, custody, dollar per, failed to pay, unjust enrichment, supervision and control, fails to state, interpreting, incarcerated, common-law, sheriff's department

JUDGES: Grainger, Sullivan & Lemire, JJ. [*1]

OPINION

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

The plaintiff, Anthony Whyte, appeals from a Superior Court judgment dismissing his complaint. We affirm.

Background. The relevant allegations in Whyte's complaint may be summarized as follows. Whyte is a citizen of Jamaica and a permanent resident of the United States. Beginning in February, 2012, the United States Immigration and Customs Enforcement (ICE) detained Whyte and placed him in custody for immigration removal proceedings. Since September, 2013, ICE has contracted with the Suffolk County sheriff's department to house Whyte while he is in ICE custody. While at the Suffolk County house of correction, Whyte signed up for a voluntary inmate work program and

received one dollar per day in wages for performing janitorial work inside the house of correction.

Whyte filed a class action complaint against the defendants in Superior Court alleging the defendants failed to treat Whyte and other similarly situated ICE detainees as employees, failed to pay minimum wages in violation of the Minimum Fair Wage Law, G. L. c. 151, § 1, failed to pay wages on a weekly or biweekly manner in violation of G. L. c. 149, § 148, governing the payment of wages (collectively [*2] Massachusetts wage laws), and asserting common-law claims of breach of contract, quantum meruit, and unjust enrichment. On the defendants' motion pursuant to Mass.R.Civ.P. 12(b)(6), 365 Mass. 754 (1974), Whyte's complaint was dismissed for failure to state a claim upon which relief may be granted.

Discussion. Our review is de novo. *Revere v. Massachusetts Gaming Commn.*, 476 Mass. 591, 595, 71 N.E.3d 457 (2017). We accept as true the allegations in the complaint, drawing every reasonable inference in Whyte's favor, and consider whether the facts alleged plausibly suggest an entitlement to relief. *Ibid.* See *Iannacchino v. Ford Motor Co.*, 451 Mass. 623, 635-636, 888 N.E.2d 879 (2008).

a. *Statutory claims.* Whyte's statutory claims were properly dismissed, as he was not an "employee" within the meaning of the Massachusetts wage laws. We are guided in the interpretation of our wage laws by Federal case law interpreting the Fair Labor Standards Act (FLSA), 29 U.S.C. § 207(a)(1) (2012). See *Mullally v. Waste Mgmt. of Mass.*, 452 Mass. 526, 531 (2008); *Vitali v. Reit Mgmt. & Research, LLC*, 88 Mass. App. Ct. 99, 103, 36 N.E.3d 64 (2015). Federal decisions consistently recognize that minimum wage and overtime laws intended to apply to work in the national economy do not apply to incarcerated individuals employed within the prison walls. See, e.g., *Miller v. Dukakis*, 961 F.2d 7, 8-9 (1st Cir. 1992); *Villarreal v. Woodham*, 113 F.3d 202, 207 (11th Cir. 1997). There is no Massachusetts authority interpreting the wage laws that treats inmates or detainees as employees. Whyte argues that ICE detainees, who are not prisoners in the usual sense, [*3] are employees under Massachusetts wage laws.

We find no reason why Whyte's status as a detainee should result in a different outcome from Federal cases. Federal cases have excluded prison labor performed within the prison, because the primary goals of the FLSA -- ensuring a basic standard of living and preventing wage structures from being undermined by unfair competition in the marketplace -- do not apply in that context. The rationale of the Federal cases is equally applicable to the Massachusetts wage laws at issue here. Indeed, in *Alvarado Guevara v. Immigration & Naturalization Serv.*, 902 F.2d 394, 395 (5th Cir. 1990), immigration detainees challenged an identical one dollar per day rate, claiming that they were employees under FLSA, and were therefore entitled to the Federal minimum wage for work in grounds, maintenance, cooking, laundry, and other services. The court ruled that the detainees were similar to prison inmates, because they were incarcerated and under the direct supervision and control of the prison, and were not intended to be covered by the FLSA. *Id.* at 396.

We agree with the trial judge's characterization of Whyte as an inmate for wage purposes. He is in the custody and under the direct supervision and control of the Suffolk County sheriff's department. The compensation [*4] for inmate work is set by statute and administrative regulations and not subject to wage laws.³ As a matter of law, Whyte is not an employee entitled to relief under the Massachusetts wage laws.⁴

³ Whyte does not contend that inmates are employees.

⁴ For the same reasons, Whyte's reliance on G. L. c. 149, § 148B, is unavailing. Since Whyte's work status is not one of employee but, rather, an inmate, that statute, which distinguishes between employees and independent contractors, does not apply.

b. *Breach of contract, quantum meruit, and unjust enrichment claims.* Whyte contends that the Massachusetts wage laws were implied terms of his contract to work at the house of correction and that the defendants' failure to comply with the wage laws necessitates recovery of damages for breach of contract. Having determined that Whyte is not an

employee subject to the wage laws, the complaint fails to state a claim for common-law breach of contract. Absent some factual allegation that he reasonably expected compensation at a higher rate, and the defendants accepted the benefit of his labor with actual or chargeable knowledge of his expectation, the complaint fails to state a claim for quantum meruit or unjust enrichment. *Finard & Co., LLC v. Sitt Asset Mgmt.*, 79 Mass. App. Ct. 226, 229-230, 945 N.E.2d 404 (2011).

Judgment affirmed.

By the Court (Grainger, Sullivan & Lemire, JJ.⁵),

⁵ The panelists are listed in order of seniority.

Entered: May 24, 2017.