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## Smith v. Houston Oilers

87 F.3d 717(5th Cir. 1996)

### INTRODUCTION

Sherman Smith (“Sherman”) and Tracy Smith (“Tracy”), two professional football players, sued the Houston Oilers (“Oilers”) and members of the Oilers’ coaching staff. The players alleged that after they sustained injuries in the pre-season training camp, the defendants required their participation in an abusive rehabilitation program under threats of being dismissed from the Oilers. The plaintiff’s also alleged that the defendant’s threatened to prevent them from playing on other teams in the National Football League.

The United States District Court for the Southern District of Texas dismissed the state claims regarding the alleged abusive rehabilitation program on the ground that those claims were preempted by federal law. Also, the district court remanded to state court the related state claims of intentional infliction of emotional distress. The players appealed the dismissal, and the Oilers cross-appealed the order which remanded the plaintiffs’ claim to state court. The United States Court of Appeals for the Fifth Circuit affirmed the dismissed issues based on federal law preemption and vacated the order remanding the intentional infliction of emotional distress claim to state court.

### FACTS

Sherman Smith and Tracy Smith contracted to play with the Houston Oilers football team for one year.<sup>1</sup> While participating in pre-season training camp during the summer of 1994, both Sherman and Tracy suffered injuries. Sherman sustained a broken thumb; while Tracy sustained a torn leg muscle.<sup>2</sup> The injuries impeded their ability to continue with preseason training; thus, the coaches placed Sherman and Tracy in a routine rehabilitation program along with other injured players.<sup>3</sup>

During the first week of player-cuts, the Houston Oilers sought to dismiss Sherman and Tracy from the team.<sup>4</sup> However, the National Football League (“NFL”) prohibited teams from terminating football players while they recovered from football related injuries.<sup>5</sup> In lieu of a dismissal, the Oilers sought to buy Sherman and Tracy out of their contracts if they agreed to leave voluntarily.<sup>6</sup> Both Sherman and Tracy rejected the offer.<sup>7</sup>

According to Sherman and Tracy, as a result of their refusal to accept the offer, Floyd Reese (“Reese”) and Steve Watterson (“Watterson”) of the Oilers organization, compelled them to submit to severe abuse that stemmed from a “phony rehabilitation

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1. Smith v. Houston Oilers, 87 F.3d 717, 718 (5th Cir. 1996).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

program.”<sup>8</sup> Sherman and Tracy believed that Reese and Watterson designed the program to coerce them into leaving the team. Such alleged abuse included: “reduction of rehabilitation previously allowed, such as stretching and ice treatment; sleep deprivation resulting from morning workouts beginning at 4:00 a.m. and evening workouts ending at 11:00 p.m.; strenuous exercise that far exceeded previous demands, including humiliating water-barrel-pulling exercises...”<sup>9</sup> Other “veiled” threats included dismissal for noncompliance with rehabilitation, intentional confusion as to workout schedules, and threats to prevent Sherman and Tracy from playing for other NFL teams in the future.<sup>10</sup> Additionally, Sherman and Tracy were the only players subjected to this program.<sup>11</sup>

Shortly after the rehabilitation program began, Sherman collapsed during a 4:00 a.m. workout and had to be taken to the hospital.<sup>12</sup> Subsequently, Tracy’s complaint to the NFL prompted the Oilers to abort the program.

Sherman and Tracy sued the Houston Oilers, Reese, and Watterson in Texas state court on the grounds of coercion, duress, extortion, assault and battery, and intentional infliction of emotional distress. The Oilers removed to federal court on the ground that the claims were preempted by §301 of the Labor Management Relations Act (“LMRA”).<sup>13</sup> The United States District Court for the Southern District of Texas dismissed the claims based on the “abusive” rehabilitation program. Furthermore, the district court remanded the players’ claim of intentional infliction of emotional distress based on the various allegations of threats. Subsequently, the players appealed the dismissal of their claim that the Oilers prevented them from playing on other NFL teams. The Oilers cross-appealed the order remanding the players’ claims of intentional infliction of emotional distress.

#### LEGAL ANALYSIS

On appeal, the United States Court of Appeals for the Fifth Circuit analyzed two issues raised by the players and one issue raised by the Oilers on cross-appeal. The issues the players raised on appeal were whether: 1.) the district court erred in holding that their claims of abuse were “inextricably intertwined” with the collective bargaining agreement (“CBA”) and hence preempted by §301 of the LMRA; and 2.) the district court erred in deciding that the Oilers’ alleged conduct was not sufficiently outrageous to override the preemption under §301.<sup>14</sup> The Oilers, on cross-appeal, claimed that the district court erred in remanding to state court the players’ claims of intentional infliction of emotional distress resulting from alleged threats by the Oilers’ organization.<sup>15</sup>

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8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.* at 719.

13. *Id.*, citing Labor Management Relations Act, 29 U.S.C. §185 (1996).

14. *Smith*, 87 F.3d at 719.

15. *Id.*

The first issue the court addressed was whether the claims raised by Sherman and Tracy were “inextricably linked” with the CBA and hence preempted by §301 of the LMRA.<sup>16</sup> Section 301 of the LMRA states that: “Suits for violation of contract between an employer and a labor organization representing employees in an industry affecting commerce...may be brought in any district court of the United States having jurisdiction.”<sup>17</sup> Courts must determine whether the CBA governs the conduct which gave rise to the claim.<sup>18</sup> If the CBA did not condone the activity, there was no preemption.<sup>19</sup> However, the Supreme Court has held that §301 of the LMRA preempts state-law claims that are “substantially dependent upon analysis of the terms of an agreement made between the parties in a labor contract.”<sup>20</sup>

In this case, the state law claim of intentional infliction of emotional distress arose from the mandatory rehabilitation program that both players conceded to participate in when they signed their contracts. Thus, to adequately decide this issue, the court would have been required to determine the legality of the rehabilitation terms in the players’ agreements.

Furthermore, courts have held that activities that give rise to emotional distress claims are generally preempted when such activities are acquiesced to by signing an agreement.<sup>21</sup> By signing the contracts, the court held that the players legally consented to “challenging workouts and rigorous rehabilitation sessions.”<sup>22</sup> Thus, the court of appeals agreed with the district court and concluded that the §301 preemption applied because: 1.) the CBA authorized NFL teams to compel players to participate in rehabilitation programs, and 2.) the resolution of the players’ state-law claim of intentional infliction of emotional distress would have required the court to analyze the terms of the agreement between the Oilers and the players.<sup>23</sup>

The second issue that the players raised was that if their claims were preempted by federal law, they were entitled to pursue their claims in state court under an exception to federal preemption. The players cited *Farmer v. United Bhd. of Carpenters & Joiners*<sup>24</sup> as controlling.<sup>25</sup> In that case, “a union officer claimed intentional infliction of emotional distress under California law, alleging that other union officers engaged in ‘outrageous conduct, threats intimidation, and words,’ causing him ‘grievous mental and emotional distress as well as great physical damage.’”<sup>26</sup> The Court in that case sustained the plaintiff’s preemption challenge and held that federal law did not preempt the officer’s emotional distress claim when the conduct on the part of the defendants was so egregious that “no reasonable man in a civilized society could be

16. *Id.*

17. *Id.* (citing 29 U.S.C. § 301 (1996)).

18. *Smith*, 87 F.3d at 719.

19. *Id.*

20. *Id.* (citing *Allis-Chalmers Corp. v. Lueck*, 471 U.S. 202, 220 (1985)).

21. *Id.*

22. *Id.* at 721.

23. *Id.*

24. 430 U.S. 290 (1977).

25. *Smith*, 87 F.3d at 719-20.

26. *Id.* at 720 (explaining *Farmer*, 430 U.S. at 302).

expected to endure it.”<sup>27</sup> Therefore, the exception only applies when the defendant’s conduct is characterized as “outrageous.”<sup>28</sup>

The court of appeals in this case applied the reasoning used in *Farmer*, but came to a different conclusion than the Supreme Court in *Farmer*. Here, the court of appeals concluded that the Oilers’ alleged misconduct of purposefully subjecting Sherman and Tracy to a rigorous rehabilitation program was not “outrageous” enough to defeat the preemption standard illustrated in *Farmer*.<sup>29</sup> Thus, both Sherman and Tracy failed on their alternative issue of an exception to the preemption protection enjoyed by the Oilers.

The final issue the court addressed was the Oilers’ cross-appeal regarding the district court’s decision to remand to state court the players’ claims of intentional infliction of emotional distress resulting from alleged threats made by the Oilers. Sections 7 and 8 of the NLRA control this issue. Section 8(a) of the NLRA, in relevant part, states that “it shall be an unfair labor practice for an employer -- 1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in [NLRA §7].”<sup>30</sup> Section 7, in relevant part, states that “[e]mployees shall have the right...to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment...”<sup>31</sup> Because Sherman and Tracy’s emotional distress claim stemmed from the rehabilitation program which was 1.) condoned by the CBA, and 2.) agreed to by the players when they signed their contracts, the appellate court agreed with the district court and held that §§ 7 and 8 of the NLRA preempted the emotional-distress claims based on alleged threats made by the Oilers.

#### CONCLUSION

The Court of Appeals for the Fifth Circuit affirmed the district court’s dismissal of the plaintiffs’ claims based on the allegedly abusive rehabilitation program. In addition, the court vacated and remanded to the district court the claims of intentional infliction of emotional distress with instructions to dismiss those claims as well. The court reasoned that the “abuse” the players received was not the result of direct acts of violence by members of the Oilers staff, but was the result of the rehabilitation process. Thus, the players, by way of signing their contracts, consented to the rehabilitative process, thereby waiving their right to bring any action against the Oilers organization as a result of injuries suffered from the rehabilitation program.

*Berve M. Power*

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.* at 721-722 (citing 29 U.S.C. §158 (a)(3) (1996)).

31. *Smith*, 87 F.3d at 721-722 (citing 29 U.S.C. §157 (1996)).