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Supreme Court Holds Post-Trial Motions Not Required to Preserve Appellate Rights on Purely Legal Questions

Dupree v. Younger, 143 S. Ct. 1382 (May 25, 2023)

In *Dupree v. Younger*, the U.S. Supreme Court held that post-trial motions are not required to preserve appellate rights on decisions concerning "pure questions of law."

A former pretrial detainee at a Maryland state prison, Kevin Younger, sued prison officials for alleged excessive force by Neil Dupree, a prison lieutenant. Dupree moved for summary judgment on the ground that Younger had not exhausted his administrative remedies, as required by the Prison Litigation Reform Act. The district court denied the motion, and the case proceeded to a jury trial. At trial, no evidence was presented about exhaustion of remedies. Younger was awarded $700,000 in damages, and Dupree appealed to the U.S. Court of Appeals for the Fourth Circuit. Before doing so, Dupree did not renew his exhaustion defense in a post-trial motion pursuant to Federal Rule of Civil Procedure 50(b). On appeal, the only issue was whether the district court erred in rejecting the exhaustion defense at the summary judgment phase.

The Fourth Circuit dismissed Dupree's appeal because, under controlling law in that circuit, any claim or defense rejected at summary judgment is not preserved for appellate review unless it is renewed in a post-trial motion. The Supreme Court noted a split among the federal circuits on this issue. The Second, Third, Sixth, Seventh, Ninth, Tenth, and D.C. Circuits *did not* require a post-trial motion to preserve claims of purely legal error; the First, Fourth, Fifth, and Eleventh Circuits *did*. The Eighth Circuit was somewhere in the middle, holding that a post-trial motion is not required to preserve a "preliminary" legal issue.

In a unanimous decision, the Supreme Court sided with the majority of the circuits and held that a post-trial motion is not required to

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preserve appellate rights on pre-trial, purely legal decisions. The Court relied on the idea that "[w]hile factual issues addressed in summary-judgment denials are unreviewable on appeal, the same is not true of purely legal issues—that is, issues that can be resolved without reference to any disputed facts." Therefore, because a district court's purely legal conclusions at summary judgment are not "supersede[d]" by later developments in the litigation, they merge into the final judgment, at which point they are reviewable on appeal. The Court addressed Younger's argument that the line between factual and legal questions can be "vexing" for lower courts, explaining that those courts "have long found it possible to separate factual from legal matters" and were "up to the task."

The Court remanded the case to determine whether Dupree's arguments on appeal were "purely legal" and to review other "properly preserved" arguments.

Key Takeaways

- In the First, Fourth, Fifth, Eighth, or Eleventh Circuits, the rule regarding preservation of a legal issue after trial has changed. Litigants are no longer required to renew a pre-trial, purely legal argument in a Rule 50(b) motion after trial.
- The Supreme Court gave no additional guidance as to what qualifies as a "purely legal issue." So, if an issue skirts the line between factual and legal, the safest course is to renew that issue in a Rule 50(b) motion post-trial.

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