

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 00-3482

Robert J. Norbeck,	*	
	*	
Appellee,	*	
	*	
v.	*	Appeal from the United States
	*	District Court for the
Basin Electric Power Cooperative,	*	District of North Dakota.
	*	[Unpublished]
Appellant.	*	

Submitted: May 16, 2001
Filed: May 21, 2001

Before WOLLMAN, Chief Judge, FAGG, and MURPHY, Circuit Judges.

PER CURIAM.

Basin Electric Power Cooperative (Basin) appeals from the district court's order and judgment entered following our remand in this retaliatory discharge case. See Norbeck v. Basin Elec. Power Coop., 215 F.3d 848 (8th Cir. 2000). Basin argues that the district court erred in entering judgment in favor of both plaintiff Robert J. Norbeck and Basin when this court in its mandate instructed the district court to enter judgment in favor of Basin. We agree with Basin that the district court's judgment on remand is inconsistent with the law which exonerates an employer who succeeds--as did Basin--on a dual-motive defense, and that the judgment also is inconsistent with our mandate.

Accordingly, we reverse and remand with instructions to modify the judgment to read as follows:

IT IS ORDERED AND ADJUDGED that judgment is entered nunc pro tunc to April 6, 1999, document no. 60. That judgment is against Plaintiff Robert J. Norbeck and in favor of Defendant Basin Electric Power Cooperative. Parties to bear their own trial costs. Defendant to have its appellate costs in the amount of \$779.30.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.