

Exercise, Don't Abuse, Discretion

EDAD!

A judge is said to have abused discretion when the decision is arbitrary, capricious, and not based on the law and facts.

An error of judgment by a trial court in making a ruling that is clearly unreasonable, erroneous, or arbitrary and not justified by the facts or the law applicable in the case amounts to an abuse of discretion.

When a judge's actions are so far out of bounds as to deny fairness, a judge has abused discretion.

"An abuse of discretion occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them...."

"[A]n error of law is always tantamount to an abuse of discretion."

"An abuse of discretion can flow from a failure or refusal, either express or implicit, actually to exercise discretion, deciding instead as if by general rule, or even arbitrarily, as if neither by rule nor discretion."

An abuse of discretion occurs when a judge "provides no rational explanation, inexplicably departs from established policies, [issues a decision that is] devoid of any reasoning, or contains only summary or conclusory statements." Such action is by its nature arbitrary and capricious.

An "abuse of discretion" occurs if the district court relies on clearly erroneous findings of fact, applies the wrong legal standard, misapplies the correct legal standard when reaching a conclusion, or makes a clear error of judgment.

A decision will be reversed based on an abuse of discretion when the conclusion is grossly and palpably wrong.

"An abuse of discretion standard conveys two notions. First, it indicates that the trial court has the authority to choose among several legally permissible, sometimes even conflicting, answers. Second, it indicates that the appellate court will not interfere with the trial court's decision simply because it did not choose the alternative the appellate court would have chosen. Appellate courts have the task of articulating the boundaries of the permissible range of the trial court's options. When the courts refer to an abuse of discretion, "[t]hey are simply saying that either the discretion reposed in the lower court judge was not exercised in conformity with applicable guidelines or the decision was plainly against the logic and effect of the facts before the court."

"Discretionary decisions must take applicable legal principles into account. If the trial court misconstrues or misapplies the law, its discretion lacks the necessary legal foundation and becomes an abuse of discretion. Accordingly, 'abuse of discretion' may connote an error of law, an error of

fact, or an error in the substance or form of the trial court's order. An appellate courts' deference to trial courts' 'discretionary' decisions should not promote result-oriented opinions or seemingly irreconcilable precedents. The law's need for consistency, predictability, and reliability requires the elimination of apparently whimsical authority on both the trial and appellate levels. In order to ensure a rational standard of review, a trial court's discretionary decisions should be reviewed to determine: (1) whether the factual basis of the decision is supported by sufficient evidence; (2) whether the trial court has correctly identified and properly applied the applicable legal principles; and (3) whether the trial court's decision is within the range of acceptable alternatives.”

“The abuse of discretion standard of review envisions a less rigorous review of the [trial] court's decision and a decreased likelihood that the decision will be reversed on appeal. It reflects an awareness that the decision being reviewed involved a choice among several acceptable alternatives. Thus, it does not permit reviewing courts to second-guess the court below, or to substitute their discretion for the [trial] court's. The abuse of discretion standard of review does not, however, immunize a [trial] court's decision from any meaningful appellate scrutiny.

Discretionary decisions must take the applicable law and the relevant facts into account. An abuse of discretion occurs when a court strays beyond the applicable legal standards or when it fails to properly consider the factors customarily used to guide the particular discretionary decision. A court abuses its discretion when it causes an injustice to the party challenging the decision by (1) applying an incorrect legal standard, (2) reaching an illogical or unreasonable decision, or (3) basing its decision on a clearly erroneous assessment of the evidence.

To avoid result-oriented decisions or seemingly irreconcilable precedents, reviewing courts should review a [trial] court's discretionary decision to determine (1) whether the factual basis for the decision is properly supported by evidence in the record, (2) whether the [trial] court properly identified and applied the most appropriate legal principles applicable to the decision, and (3) whether the [trial] court's decision was within the range of acceptable alternative dispositions.”