Washington and Lee Journal of Civil Rights and Social Justice

Volume 9 | Issue 1 Article 11

Spring 4-1-2003

EEOC v. QUALITY PORK PROCESSORS, INC., No. 01-143, 2002 WL 202452 (D. Minn. Feb. 1, 2002)

EEOC v. QUALITY PORK PROCESSORS, INC., No. 01-143, 2002 WL 202452 (D. Minn. Feb. 1, 2002)

FACTS

On December 21, 1998, Quality Pork Processors (QPP) hired April Landers to work in its plant in Austin, Minnesota.[1] QPP assigned Landers to the skinning room, where Landers worked with thirty to thirty-five co-workers, including Steve Guitierrez and Tha Im.[2] In January, 1999, Guitierrez began to make racially derogatory remarks to Landers regarding her boyfriend, William Matlock, a black man.[3] Guitierrez referred to Landers as a "nigger lover" and asked her questions such as "How is your nigger doing?"[4] Guitierrez made these comments on a daily basis encompassing the entire period that Guitierrez and Landers worked together.[5] Im also made racially insensitive comments toward Landers regarding Matlock.[6] Occasionally, the remarks caused Landers to cry in the restroom.[7] Landers repeatedly asked Guitierrez and Im to stop making the remarks.[8]

Near the end of April, 1999, Landers complained about the racial remarks to Roger Hansen, her immediate supervisor.[9] Hansen did not respond to the complaint[10] and on May 6, 1999, Landers met with the director of human resources, Dale Wicks.[11] Landers explained to Wicks that her co-workers referred to her boyfriend as a "nigger" and that Hansen had failed to rectify the situation.[12] According to QPP, Wicks then asked Landers for Guitierrez and Im's names in order to start an investigation, but Landers refused to identify them.[13]

On May 7, 1999, Ricky Faith, the general foreman of the night shift, and Jim Hoffman, the night superintendent, met with Landers to discuss the racial slurs.[14] They also discussed the fact that Hansen had prohibited

---

[1] EEOC v. Quality Pork Processors, Inc., No. 01-143, 2002 WL 202452, at *1 (D. Minn. Feb. 1, 2002).
[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.* Im testified that he only referred to Matlock as a "nigger" once and that was in response to Landers confessing to him that Matlock had hit her. The court made no reference to how many times Landers claimed Im made racially insensitive remarks to her.
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] Hansen claimed that Landers never came to speak with him about the remarks.
[11] *Id.* at *1-2.
[12] *Id.* at *2.
[13] *Id.*
[14] *Id.*

Landers from working overtime hours.[15] Consequently, Faith and Hoffman restored the overtime hours that Hansen had taken from Landers.[16] On May 10, 1999, QPP transferred Landers to the newly created position of fecal contamination inspector.[17] As the fecal contamination inspector, Landers was responsible for inspecting each side of pork for fecal matter, specks of grease, and pieces of liver, kidney, or lung.[18]

Landers complained about the transfer to Emil Laack, Jr., the night union steward.[19] Landers informed Laack that Hansen had not responded to her complaint regarding the racial remarks.[20] Approximately two weeks later, on May 26, 1999, Landers, Laack, and Wicks met to discuss Hansen's lack of response.[21] At this meeting, Landers expressed her belief that her transfer had resulted from her complaints about Hansen not addressing the remarks.[22]

QPP eliminated the position of fecal contamination inspector in late June and transferred Landers to a position in the livestock pens on August 16, 1999.[23] Prior to this transfer, Landers filed complaints with the Equal Employment Opportunity Commission (EEOC) against QPP and the union.[24] On August 29, 1999, Landers met with union officials in a mediated settlement conference.[25] The union representatives determined that Guitierrez and Im had made racially insensitive remarks to Landers.[26] The union posted warning slips in their files and both Guitierrez and Im apologized to Landers.[27] Landers quit her job on July 13, 2001[28] and EEOC commenced this suit, claiming a racially hostile work environment and retaliation by QPP in response to Landers's complaints.[29] QPP then

---

[15] *Id.*

[16] *Id.* The court made no indication what steps, if any, Faith and Hoffman agreed to take regarding the racial slurs.

[17] *Id.* The court did not state what Landers's position was prior to the transfer, other than to say that she worked in the skinning room.

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.* The court stated that according to QPP, Landers, again, refused to identify Guitierrez and Im to Wicks.

[23] *Id.* at *3. The court made no indication of any incidents or events, if any, that took place at QPP with regard to Landers between late June and her transfer to the new position in August.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.* The court provided no information about why Landers quit her job.

[29] *Id.* at *1.

motioned for summary judgment, alleging that Landers had failed to establish essential elements of either cause of action.[30]

HOLDING

The United States District Court for the District of Minnesota granted in part and denied in part QPP's motion for summary judgment. The court held that, based on the evidence presented, a jury could find that the conduct complained of was of such a nature to create a racially hostile work environment.[31] However, the court also held that EEOC did not establish sufficient evidence from which a jury could find that Landers's transfer was a retaliatory act.[32]

ANALYSIS

The court examined the standard of review for granting summary judgment. In general, the court will grant summary judgment if, looking at the evidence in favor of the nonmoving party, there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law.[33] The burden is on the moving party to demonstrate that the material facts are undisputed.[34] However, the nonmoving party must show specific facts that are material to an essential element of the claim at issue that a genuine issue for trial exists.[35] The court will grant summary judgment if the nonmoving party cannot support an essential element of its claim because, without the support, all other facts are immaterial.[36]

The court turned to EEOC's first claim that QPP created a racially hostile work environment. Title VII states that it is "an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."[37] The court interpreted "terms, conditions, or privileges of employment" to mean that Congress intended to encompass all discriminatorily hostile or abuse work environments affecting all people.[38]

---

[30] *Id.*
[31] *Id.* at *6.
[32] *Id.* at *7.
[33] *Id.* at *3.
[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] 42 U.S.C. § 2000e-2(a)(1) (2002).
[38] EEOC v. Quality Pork Processors, Inc., No. 01-143, 2002 WL 202452, at *4 (D. Minn. Feb. 1, 2002).

The court stated that Title VII is violated in the workplace when the discriminatory remarks severely alter the conditions of employment.[39]

The court stated that EEOC had to establish five elements to be successful on its racially hostile work environment claim: (1) Landers was a member of a protected group,[40] (2) Landers was subjected to unwelcome harassment, (3) the harassment was based on race, (4) the harassment affected a term, condition, or privilege of employment, and (5) QPP knew or should have known of the harassment and failed to take expeditious and adequate measures to eliminate the harassment.[41] The court stated that the fourth factor has both a subjective and an objective element.[42] Therefore, EEOC had to establish that the behavior subjectively affected Landers and that the behavior created an objectively hostile work environment.[43]

QPP contended that Guitierrez's and Im's comments were not severe or pervasive enough to create an objectively hostile work environment.[44] The court stated that it had to examine the entirety of conduct at the workplace and not focus on one or two isolated instances when examining a claim for a racially hostile work environment.[45] Additionally, the court would examine the location of other people and the frequency and severity of the discriminatory conduct.[46] The court would also determine whether the conduct was physically threatening or humiliating.[47] Finally, the court would determine if the conduct prevented the targeted individual from completing his or her work.[48] Landers did not allege that the comments were physically threatening or humiliating, that the comments affected her job performance, or that other racially motivated incidents occurred at QPP outside of the comments by Guitierrez and Im.[49] However, Landers claimed that Guitierrez's comments were louder when other workers were present and that those workers laughed at his comments.[50]

The court summarized the evidence in support of the allegation that two co-workers had made racially offensive comments on a daily basis for four months despite Landers's repeated requests that they refrain from

---

[39] *Id.*
[40] QPP did not argue that Landers was not among the class Congress envisioned to protect when drafting the statute. Thus, the court did not examine this prong of the test.
[41] *Id.*
[42] *Id.*
[43] *Id.*
[44] *Id.* QPP did not argue that Landers was not subjectively affected by the derogatory comments.
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Id.*
[50] *Id.*

making such comments.[51] The court distinguished the case from *Carter v. Chrysler Corp*,[52] in which the plaintiff received sexual gestures, sexual insults written on walls, and threatening notes for two years.[53] Here, the conduct included only verbal remarks from two co-workers.[54] Additionally, the court distinguished the case from *Ross v. Douglas County, Nebraska*[55] and *Delph v. Dr. Pepper Bottling Co.*[56] In those cases, supervisors made racially derogatory remarks over a period of years and the conduct included other racial comments and jokes made in the presence of the plaintiffs.[57] Here, the conduct lasted for a period of six months and supervisors did not make the remarks.[58] Nevertheless, the court held that, based on the evidence presented, a reasonable jury could find that QPP had subjected Landers to a racially hostile work environment and denied QPP's motion for summary judgment on this claim.[59]

The court next turned its attention to the claim of retaliation. Under Title VII, EEOC had to demonstrate that Landers's activity was protected and that she endured a negative employment action.[60] EEOC also had to establish a casual connection between the wrong and the protected activity.[61] The court stated that under *Ledergerber v. Stangler*,[62] a job transfer involving minor changes in working conditions and no changes in pay or benefits was not enough to sustain a claim of adverse employment action.[63] QPP argued that the transfer contained only minor changes in Landers's working conditions and that Landers's hours, salary, and benefits remained the same.[64] Furthermore, QPP argued that the working conditions of the two positions were virtually identical and that Landers's new job was not as physically demanding as her old job.[65]

---

[51] *Id.*
[52] Carter v. Chrysler Corp., 173 F.3d 693 (8th Cir. 1999).
[53] EEOC v. Quality Pork Processors, Inc., No. 01-143, 2002 WL 202452, at *5 (D. Minn. Feb. 1, 2002).
[54] *Id.*
[55] Ross v. Douglas County, Neb., 234 F.3d 391 (8th Cir. 2000). In *Ross*, plaintiff worked for over a year at a county correctional facility where plaintiff's supervisor continually addressed plaintiff as "nigger" or "black boy."
[56] Delph v. Dr. Pepper Bottling Co., 130 F.3d 349 (8th Cir. 1997). Here, plaintiff's supervisor repeatedly called plaintiff "nigger," "token black boy," or "my little black boy." Additionally, plaintiff's co-workers made racial slurs and jokes directed at plaintiff.
[57] *Quality*, 2002 WL 202452 at *6.
[58] *Id.*
[59] *Id.*
[60] *Id.*
[61] *Id.*
[62] Ledergerber v. Stangler, 122 F.3d 1142 (8th Cir. 1997).
[63] EEOC v. Quality Pork Processors, Inc., No. 01-143, 2002 WL 202452, at *6 (D. Minn. Feb. 1, 2002).
[64] *Id.*
[65] *Id.*

Landers argued that her new position prevented her from taking regularly scheduled breaks because she had to secure a replacement while she was not on the line.[66] The court dismissed this argument because QPP did not prevent Landers from taking breaks.[67] The court stated that the requirement of finding a replacement did not create a materially significant disadvantage to Landers or create an adverse employment action.[68] Landers next argued that, as fecal contamination inspector, her responsibilities diminished because she would examine the hogs after thirty-two other people examined the hog.[69] Therefore, the hog was sufficiently examined before it came to her.[70] The court dismissed this argument because no evidence supported the inference that the hog was sufficiently inspected before it came to Landers.[71]

Finally, Landers claimed to be the victim of other retaliatory acts, such as misplacement of her paycheck, shock by an electric prod, tears in her laundry bag that led to the loss of work clothing, and the loss of air in the tire on her car.[72] QPP argued, and the court agreed, that Landers could link these events to a protected activity and that the claims were unexhausted and fell outside the purview of the retaliation charge.[73] The court stated that no evidence suggested that the acts were retaliatory outside of what Landers felt, and that Landers's subjective feelings did not qualify as a valid standard of review.[74] Based on the presented evidence, the court concluded that no reasonable jury could find QPP's transfer of Landers to be an adverse employment action and granted QPP's motion for summary judgment on that claim.[75]

CONCLUSION

The court's decision may have set a precedent to expanding the number of people and types of claims that Title VII encompasses. In this case, the court denied the defendant's motion for summary judgment motion when the targeted individual was white and the racially derogatory comments concerned an individual other than the target. It did so despite the

---

[66] *Id.*
[67] *Id.*
[68] *Id.*
[69] *Id.*
[70] *Id.*
[71] *Id.* at *6-7.
[72] *Id.* at *7.
[73] *Id.*
[74] *Id.*
[75] *Id.*

fact that the co-workers had made the racially derogatory remarks for a period of only six months and the targeted individual had made no formal complaints until after the company transferred the target to an area away from the harassing co-workers.

This claim is significantly weaker than other claims brought under Title VII in the Eighth Circuit. In *Ross* and *Delph*, the court dealt with cases of prolonged activities of racial abuse directed toward a black employee by his immediate supervisor. In the instant case, no racially derogatory remarks were made about Landers; instead, the remarks were directed at her boyfriend.[76] Additionally, Landers's co-workers made all of the racially derogatory remarks. Landers's supervisors did not participate in the alleged harassment, other than Landers's claim that they failed to prevent her co-workers from making such remarks. Even this claim seems tenuous in that QPP claimed that Landers would not identify the names of the co-workers.

In *Woodland v. Joseph T. Ryerson & Son, Inc.*,[77] the court stated that the employer must know or reasonably should know of the racial harassment and take adequate action necessary to stop the harassment.[78] Here, the court stated that Landers refused to identify the harassing co-workers when Wicks specifically asked Landers during their meetings.[79] QPP would have trouble stopping the harassing behavior if QPP did not know who to direct necessary action toward.

This case presents the possibility that courts will have less tolerance for any racially charged hostile work environment, regardless of whether discriminatory remarks are directed at an employee or made to that employee about someone else. The court found that a reasonable jury could find a racially hostile work environment based on the mere presence of racially derogatory remarks.[80] This decision may expand Title VII to include a cause of action for any person, in any work environment, based on the fact that racially derogatory remarks are present. The court did not decide whether Landers was a member of the group that Congress had intended to protect, due to QPP's concession that Landers had standing to bring the claim.[81] Thus, in a similar case, a plaintiff might find itself barred from recovery if the defendant is not as willing as QPP to concede that the plaintiff is among

---

[76] *Id.* at *1.
[77] Woodland v. Joseph T. Ryerson & Son, Inc., 302 F.3d 839 (8th Cir. 2002).
[78] *Id.* at 844.
[79] EEOC v. Quality Pork Processors, Inc., No. 01-143, 2002 WL 202452, at *2 (D. Minn. Feb. 1, 2002). There was discrepancy regarding whether or not Landers had informed Hansen of the harassment. Landers said that she had informed Hansen, but Hansen refuted the claim.
[80] *Id.* at *6.
[81] *Id.* at *4.

the statutorily protected class. It is important to note that although Title VII prohibits employers from creating a work environment that is hostile toward women, the claim in this case was not gender based, but race based. Although Landers may be a member of a protected class under Title VII, she is not automatically included under the class protected in racially hostile work environment claims.

Summary and Analysis Prepared By:
Zachary Desmond