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## CHUANG V. UNIVERSITY OF CALIFORNIA DAVIS (9TH CIR. 2000)

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**CHUANG V. UNIVERSITY OF CALIFORNIA DAVIS  
(9TH CIR. 2000)**

**FACTS**

In 1982, the School of Medicine at the University of California Davis (“Davis”) hired Dr. Ronald Chuang (“Dr. Chuang”) as an assistant “in-residence” professor of pharmacology and his wife, Dr. Linda Chuang, as an assistant research pharmacologist.<sup>1</sup> As a professor-in-residence, Dr. Chuang was responsible for funding his salary and research through outside grants.<sup>2</sup> Dr. Chuang intended to ultimately earn a full-time-equivalent (“FTE”) position which, unlike the residence position, would be funded by Davis and include eligibility for tenure.<sup>3</sup> Since the time of his hiring, Dr. Chuang has become preeminent in his field and is considered to be a world-renowned microbiologist.<sup>4</sup> His numerous scholarly publications are highly regarded and his research has earned him bountiful grants from the National Institute of Health as well as from other sources.<sup>5</sup>

*A. Denial of FTE Position*

Numerous assurances were made to Dr. Chuang that he would be promoted to an FTE position in the pharmacology department.<sup>6</sup> Shortly after Dr. Chuang arrived at Davis, he applied for and was awarded a five-year NIH Research Career Development Award.<sup>7</sup> Dr. Larry Stark, chairman of the pharmacology department, promised Dr. Chuang that he would be granted an FTE position at the completion of the five-year research period.<sup>8</sup> In a letter dated April 26, 1988, Dr. Stark assured Dr. Chuang that Medical School Dean Hibbard Williams was committed to keeping Dr. Chuang on the faculty, but that Davis could not offer him an FTE until a tenured professor in the pharmacology department resigned or retired.<sup>9</sup> After Dr. Chuang completed the research in 1989, he did not receive the promised promotion.<sup>10</sup> Despite five retirements in the department since 1989, Dr. Chuang has never received an FTE.<sup>11</sup>

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1. *Chuang v. University of Ca. Davis*, 225 F.3d 1115, at 1120 (9th Cir. 2000).

2. *Chuang*, 225 F.3d at 1120.

3. *Id.* at 1120.

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.* at 1121.

A racist comment made at a committee meeting in 1989 was introduced as direct evidence of discrimination at the medical school.<sup>12</sup> During a discussion regarding the status of an Asian candidate for a position at the school, Dean Hibbard allegedly laughed when a faculty member stated that “two Chinks” in the pharmacology department was more than enough.<sup>13</sup>

The FTE positions that became available in the pharmacology department during Dr. Chuang’s residency were awarded to Caucasians.<sup>14</sup> At the time the suit was filed, Dr. Chuang was the only non-Caucasian in the department and the only full time faculty member without an FTE.<sup>15</sup>

### *B. Forcible Relocation*

When Dr. Chuang and his wife joined the pharmacology department, they were assigned laboratory space on the fourth floor of Tupper Hall.<sup>16</sup> Though for certain periods, Dr. Chuang and his wife were the only professors conducting active research and experiments, they faced numerous obstacles from colleagues and the administration in maintaining their own personal and adequate lab space.<sup>17</sup> In 1990, the administration asked Dr. Chuang to temporarily donate two of his laboratory rooms that he was using for ongoing research to Dr. Hanley, a new hire.<sup>18</sup> Other faculty members with no ongoing research were not asked to donate any space even though they were using their laboratories only for storage.<sup>19</sup> The Chuangs’ rooms were never returned and they were continually forced to borrow research space.<sup>20</sup>

In 1996, the department of pharmacology was moved to the basement of the building to accommodate a new genetics based research program.<sup>21</sup> When Dr. Chuang and his wife protested the relocation, the new chairman of the department, Dr. Hollinger, threatened that “worse things” would happen if they did not comply.<sup>22</sup> Members of the dean’s office packed and moved Dr. Chuang’s laboratory without his consent and damaged valuable equipment in the process.<sup>23</sup> Additionally, the administration changed the locks to the fourth

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12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.* at 1121-1124.

18. *Id.* at 1121.

19. *Id.*

20. *Id.*

21. *Id.* at 1122.

22. *Id.*

23. *Id.*

floor laboratory.<sup>24</sup> In response to the forced relocation, Chairman Hollinger told the Chuangs, "You should pray to your Buddha for help."<sup>25</sup> According to faculty members, this involuntary relocation of a researcher's laboratory was unprecedented.<sup>26</sup>

The new space was insufficiently equipped and the Chuangs' research suffered in consequence.<sup>27</sup> Experiments were delayed, members of Dr. Chuang's research program quit and NIH withheld a valuable grant.<sup>28</sup> No white professors conducting active research were required to relocate.<sup>29</sup>

### *C. Investigation of Misappropriated Funds*

In 1994, when \$8,000 of Dr. Chuang's NIH grant was misdirected to the pharmacology department, Dr. Chuang complained to various administrators and to Davis' internal audit office.<sup>30</sup> The associate director of the internal audit office assured Dr. Chuang that the matter would be investigated and that the provost would inform him of the findings.<sup>31</sup> Neither the provost nor the internal audit office ever contacted Dr. Chuang with any formal findings.<sup>32</sup>

Dr. Chuang and his wife brought a claim under Title VII of the Civil Rights Act of 1964<sup>33</sup> alleging that officials at the University of California Davis unlawfully discriminated against them on the basis of race (Asian) and ethnic origin (Chinese).<sup>34</sup> The Chuangs contended that Davis (1) refused to give Dr. Chuang a promised tenure position; (2) forcibly relocated the Chuangs' laboratory; and (3) failed to respond to Dr. Chuang's complaints regarding the misappropriation of his research funds.<sup>35</sup>

The District Court granted Davis' motion for summary judgment on all three claims.<sup>36</sup>

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24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.* at 1123.

28. *Id.*

29. *Id.* at 1122.

30. *Id.* at 1123.

31. *Id.*

32. *Id.*

33. 42 U.S.C. § 2000e (1964).

34. *Chuang*, 225 F.3d at 1119. Title VII makes it an unlawful employment practice for an employer "to fail or refuse to hire or to discharge any individual, or otherwise 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." 42 U.S.C. § 2000e-2(a)(1).

35. *Chuang* 225 F.3d at 1119.

36. *Id.* at 1120.

## HOLDING

The Court of Appeals for the Ninth Circuit reversed the district court's grant of summary judgment on two of Dr. Chuang's claims.<sup>37</sup> The Ninth Circuit concluded that by establishing a prima facie case of discrimination and by demonstrating that Davis' explanations for its actions were pretext, Dr. Chuang alleged facts requisite to survive summary judgment.<sup>38</sup>

## ANALYSIS

In analyzing a claim of intentional discrimination under Title VII, the court noted that the *McDonnell Douglas* framework provides the appropriate legal analysis.<sup>39</sup> In *McDonnell Douglas Corp. v. Green*,<sup>40</sup> the Supreme Court articulated the requisite allegations to maintain a Title VII disparate treatment case. Under this framework, the plaintiff must first establish a prima facie showing that he or she was the victim of intentional discrimination.<sup>41</sup> To satisfy this initial burden, the plaintiff must demonstrate (1) membership in a protected class;<sup>42</sup> (2) qualification for the employment position in question; (3) an adverse employment action; and (4) more favorable treatment of similarly situated employees outside the plaintiff's protected class.<sup>43</sup> Once the plaintiff establishes the prima facie case, the burden of production shifts to the defendant to articulate a legitimate, non-discriminatory explanation for the employment action.<sup>44</sup> The plaintiff then has the opportunity to prove that the reason set forth by the employer is merely a pretext for discrimination.<sup>45</sup>

The Ninth Circuit noted that a plaintiff "need produce very little evidence in order to overcome an employer's motion for summary judgment."<sup>46</sup> The court, therefore, found that the District Court had erroneously applied a stricter standard in evaluating Dr. Chuang's claims.<sup>47</sup>

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37. *Id.* The Ninth Circuit found that the claims that Davis unlawfully discriminated against Dr. Chuang by denying him an FTE position and by forcibly relocating his laboratory withstood summary judgment. The third claim regarding the misappropriation of research funds was denied.

38. *Id.* at 1129.

39. *Id.* at 1123.

40. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).

41. *McDonnell Douglas*, 411 U.S. at 802.

42. Under Title VII, employers are prohibited from discriminating with respect to a broadly defined class of employment-related decisions on the basis of five specifically enumerated classifications – race, color, religion, national origin and sex. 42 U.S.C. § 2000e-2(a).

43. *McDonnell Douglas*, 411 U.S. at 802.

44. 411 U.S. at 802.

45. *Id.* at 804.

46. *Chuang v. University of Ca. Davis*, 225 F.3d at 1124.

47. *Chuang*, 225 F.3d at 1124.

A. *Satisfying the Prima Facie Burden*

The Ninth Circuit concluded that Dr. Chuang established a prima facie showing of discrimination for both his FTE denial claim and forcible relocation claim.<sup>48</sup> In regard to the FTE denial, Davis challenged the second and third components of Dr. Chuang's prima facie case.<sup>49</sup> Davis first argued that Dr. Chuang was not qualified to receive an FTE position in the genetics program.<sup>50</sup> Davis then contended that the denial of such a position was not an adverse employment action because Dr. Chuang never formally applied for such a position.<sup>51</sup> The court dispatched the first objection as being misdirected.<sup>52</sup> It pointed out that Dr. Chuang challenged Davis' failure to award him an FTE position in the pharmacology department, not in the genetics program.<sup>53</sup> Furthermore, the court noted that there was a genuine issue of fact as to whether Dr. Chuang's expertise in microbiology may have made him qualified for the program in human genetics.<sup>54</sup> Finally, a professor with no experience in human genetics was awarded such an FTE.<sup>55</sup>

The Ninth Circuit rejected Davis' contention that Dr. Chuang never applied for an FTE position as contrary to the evidence.<sup>56</sup> The court recognized that Dr. Chuang had made various written requests for the position and that both the department chairman and medical school dean assured him he would be promoted.<sup>57</sup> Additionally, Dr. Chuang presented evidence that other faculty members were awarded FTEs without formal applications.<sup>58</sup>

The Ninth Circuit also maintained that a prima facie case existed as to the forcible relocation of Dr. Chuang's laboratory space.<sup>59</sup> Davis attacked the third and fourth components of Chuang's prima facie showing by arguing that the relocation was not an adverse employment action and that Dr. Chuang failed to demonstrate differential treatment.<sup>60</sup> The Ninth Circuit found that the forcible relocation sufficiently disrupted Dr. Chuang's work as to qualify as an adverse employment action.<sup>61</sup> It stated that "[t]he removal of or substantial

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48. 225 F.3d at 1125-1126.

49. *Id.* at 1124.

50. *Id.*

51. *Id.*

52. *Id.* at 1125.

53. *Id.*

54. *Id.*

55. *Id.* at 1124.

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.* at 1126.

60. *Id.* at 1125.

61. *Id.* at 1126.

interference with work facilities important to the performance of the job constitutes a material change in the 'terms and conditions'<sup>62</sup> of a person's employment."<sup>63</sup> The court found it significant that Dr. Chuang's colleagues were themselves shocked and dismayed by Davis' conduct in forcing Chuang to relocate his research space.<sup>64</sup> The court also rejected Davis' second objection by pointing out that the Chuangs were forced to concede their laboratory space to a Caucasian faculty member of junior rank and that Davis has never relocated a Caucasian professor over his objections.<sup>65</sup>

The third charge involving the alleged misappropriation of funds, however, did not meet the requisite standard to satisfy the prima facie burden.<sup>66</sup> The Ninth Circuit concluded that Davis' failure to respond to Dr. Chuang's grievance concerning the mishandling of his research funds did not amount to an adverse employment action because it did not materially interfere with the "compensation, terms, conditions or privileges" of Dr. Chuang's employment.<sup>67</sup> Furthermore, the court noted Dr. Chuang's failure to proffer any evidence that demonstrated more favorable treatment of non-minority employees in similar circumstances.<sup>68</sup>

#### *B. Davis' Non-Discriminatory Explanation*

After finding that Dr. Chuang fulfilled his prima facie burden for his FTE denial and forcible relocation claims, the court looked at whether Davis had articulated some legitimate, non-discriminatory reason for the challenged employment actions.<sup>69</sup> Davis maintained that it did not award Dr. Chuang an FTE because his position as a full-time faculty member was secure and, if necessary, the school would pay Dr. Chuang's base salary.<sup>70</sup> It also contended that the relocation of Dr. Chuang's laboratory space was necessary to accommodate the newly introduced genetics program.<sup>71</sup> The court found that these explanations satisfied Davis' burden of production.<sup>72</sup>

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62. See note 34.

63. *Chuang*, 225 F.3d at 1126.

64. 225 F.3d at 1126.

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.*

71. *Id.*

72. *Id.*

### C. Demonstration of Pretext

Having found that Davis met its burden, the court then considered whether Dr. Chuang demonstrated that the reasons offered by Davis were not its true reasons, but rather, were a pretext for discrimination.<sup>73</sup> Referring to its own decision in *Godwin v. Hunt Wesson, Inc.*,<sup>74</sup> the court explained that a plaintiff can demonstrate pretext either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing the employer's proffered reasons are unworthy of credence.<sup>75</sup>

In articulating the requisite standard of proof to establish pretext, the Ninth Circuit relied on the Supreme Court's decision in *Reeves v. Sanderson Plumbing Products, Inc.*<sup>76</sup> The *Reeves* court stated that the plaintiff need only demonstrate a genuine issue of material fact regarding the truth of a defendant's facially-neutral reason to survive a motion for summary judgment.<sup>77</sup> Furthermore, the Supreme Court held that to establish an issue of fact, the plaintiff does not necessarily have to produce any evidence of discrimination beyond that which constituted his prima facie case.<sup>78</sup>

The Ninth Circuit found that the cumulative evidence comprising Dr. Chuang's prima facie showings in respect to both the FTE denial and the forcible relocation created a genuine issue of material fact as to whether Davis' reasons were a pretext for discrimination.<sup>79</sup> The court found two items of direct evidence persuasive in attributing a discriminatory motive to Davis.<sup>80</sup> The first was the comment made by a faculty member at the executive committee meeting in which she stated that "two Chinks" in the pharmacology department were more than enough.<sup>81</sup> The court stated that the dean's amused reaction to this "egregious and bigoted insult" adequately established unlawful intent on his part.<sup>82</sup> The other piece of direct evidence the court found significant was Chairman Hollinger's statements that the Chuangs should "pray to [their] Buddha for help" and that "worse things" would happen if they did not comply with the relocation order.<sup>83</sup> The Ninth Circuit rejected Davis' and the District Court's finding that Hollinger's statement was intended to be

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73. *Id.* at 1127.

74. *Godwin v. Hunt Wesson, Inc.*, 150 F.3d 1217 (9th Cir. 1998).

75. *Chuang*, 225 F.3d at 1127.

76. *Reeves v. Sanderson Plumbing Prods., Inc.*, 120 S.Ct. 2097 (2000).

77. *Reeves*, 120 S.Ct. at 2106.

78. 120 S.Ct. at 2106.

79. *Chuang*, 225 F.3d at 1127.

80. *Id.* at 1128-1129.

81. *Id.* at 1128.

82. *Id.*

83. *Id.* at 1129.



solely a humorous comment on their shared plight in the relocation of the pharmacology department.<sup>84</sup> The court stated that the comment was not humorous and that, as chairman of the department, Hollinger more likely created the difficulties the relocation caused than shared in them.<sup>85</sup>

The Ninth Circuit also found that the indirect evidence presented in Dr. Chuang's prima facie case raised a genuine issue of fact regarding the truth of Davis' assertion that it did not offer Dr. Chuang an FTE position because his job was not in jeopardy.<sup>86</sup> In light of Dr. Chuang's exceptional qualifications and established reputation, the promises of an FTE position by various administrative officials and the assignment of available FTE positions to non-Asian and non-Chinese professors, the court concluded that a factfinder could find Davis' explanation unconvincing.<sup>87</sup> Thus, based on the cumulative effect of the direct and indirect evidence, the court concluded that Dr. Chuang presented a sufficient showing of pretext for the purpose of summary judgment.<sup>88</sup>

The court further found that Dr. Chuang had made a sufficiently strong showing to raise an issue of fact as to the truthfulness of Davis' explanation for the relocation.<sup>89</sup> The failure of the dean to return the two rooms Dr. Hanley had borrowed from the Chuangs, and the exceedingly hostile manner in which the Chuangs were evicted from their laboratory raise a jury issue as to the truth or falsity of Davis' motives.<sup>90</sup>

Finally, the Ninth Circuit rejected the evidence of Davis' subsequent hiring of three Asians as irrelevant to the issue of whether Dr. Chuang was discriminated against because the professors were hired after the Chuangs filed their complaint.<sup>91</sup> Citing *Gonzales v. Police Department of San Jose*,<sup>92</sup> the court stated that the nondiscriminatory hiring practices of an employer following the filing of a discrimination charge will rarely constitute circumstantial evidence in favor of the employer.<sup>93</sup>

## CONCLUSION

Although the legal conclusions set forth in *Chuang v. University of California Davis* clarify the manner in which the *McDonnell Douglas* test

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84. *Id.*

85. *Id.*

86. *Id.* at 1127.

87. *Id.*

88. *Id.* at 1129.

89. *Id.*

90. *Id.*

91. *Id.*

92. *Gonzales v. Police Dep't of San Jose*, 901 F.2d 758 (9th Cir. 1990).

93. *Chuang*, 225 F.3d at 1129.

applies to a motion for summary judgment, the court's holding also magnifies the social significance of the facts of this case. *Chuang* makes it clear that discrimination in employment on the basis of race, color, religion, national origin and sex continues to permeate our society. As Dr. Chuang's plight demonstrates, even institutions of higher learning, committed to the procreation and dissemination of knowledge, are not immune to the abominable and disruptive effects of base prejudice.

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