

Discrimination: Alzheimer's Patient's Racial Slurs Do Not Create A Hostile Work Environment.

An African-American certified nursing assistant worked in a nursing home which primarily cared for elderly persons with Alzheimer's, other dementias and schizophrenia.

A seventy year-old Alzheimer's patient who had been schizophrenic since age thirteen began directing vehement racial slurs against the CNA, including frequent use of the word "nigger." The patient, who was Hispanic, also made racial remarks against Hispanics and Caucasians.

The CNA complained to management but they did nothing about it. The CNA was eventually fired for making physical threats against the patient in question and then lying about abuse of the patient during the ensuing internal investigation.

Persons caring for Alzheimer's patients work under circumstances that are unique to their chosen profession.

These patients are unable to understand or control what they say and do.

It is not reasonable to perceive such a workplace as a racially hostile environment solely because of statements made by mentally impaired patients.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
September 1, 2006

The US Equal Employment Opportunity Commission sued the nursing home on the CNA's behalf. The US Circuit Court of Appeals for the Fifth Circuit, however, dismissed the suit.

Ordinarily a business must protect its employees from racial harassment by the business's customers. Failing to do so amounts to fostering a racially hostile work environment and is considered a form of racial discrimination.

However, the court said, caregivers working with persons who are unable to understand or control their speech and actions work under special, unique circumstances. They cannot take patients' remarks personally as indications of a racially hostile work environment. ***EEOC v. Nexion Health, 2006 WL 2528432 (5th Cir., September 1, 2006).***