

Race Discrimination: Nurse's Case Dismissed By Court.

In a recent case, the US District Court for the Western District of New York gave the benefit of the doubt to an African-American nurse's former employer whom she sued for race discrimination after being terminated.

Unwise Employment Actions

The court said in so many words that Title VII of the Federal Civil Rights Act does not provide legal remedies for employees against poorly thought-out or unwise employment actions, only against employment actions that are motivated by racial bias or other illegal factors.

The person who fired the nurse may have conducted a shoddy investigation and made a poorly-informed or unwise decision to fire her. However, to succeed with a discrimination lawsuit the nurse had to prove he had a discriminatory state of mind when he fired her, the court said.

Decision-Maker

The court noted it is a basic principle of discrimination law that only the motivation of employment decision-makers is relevant, not the attitudes of others.

The African-American nurse claimed her supervisor blindly accepted the word of a white nurse whom she herself supervised and reprimanded her in front of other nurses for a scheduling mix-up. Then the supervisor reported the African-American nurse to a manager who made the actual decision to fire her.

The court ruled the supervisor's bias or lack of bias toward African-Americans was irrelevant. She was not an employment decision-maker herself. She had no control or responsibility for the decision to fire the African-American nurse.

Confidentiality Agreement

The court had to weigh the evidence and make a decision. The court accepted the manager's testimony it was breach of the confidentiality clause in her contract that motivated him to fire the African-American nurse. Whether that was a wise decision or not, it was not race discrimination, the court concluded. **Jordan v. Olsten Corporation**, 111 F. Supp. 2d 227 (W.D.N.Y., 2000).

In discrimination cases employers are rarely so cooperative as to include a notation in the personnel file that their actions are motivated by factors expressly forbidden by law.

However, the employer in this case conceded for the sake of argument the former employee had circumstantial evidence of discrimination.

That is, she is African-American, she was fired and three other patient care coordinators were not.

The employer's defense strategy in this case was to argue there was a legitimate, non-discriminatory reason for firing her.

That is, the African-American nurse discussed confidential administrators' salary information with her co-workers, other care coordinators, in violation of the confidentiality clause in her contract. They claimed that action undermined morale during a major company-wide reorganization.

Even so, the nurse could get in the last word if she could convince the court the reason the employer put forth for her firing was only a pretext for unlawful racial discrimination.

UNITED STATES DISTRICT COURT,
NEW YORK, 2000.

Race Discrimination: African-American Nurse Can Sue Employer.

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In this case the supervisor made numerous racist comments about African-Americans, even referring to them as "niggers." She had a practice of requiring African-American home health aides to clean her home, even while complaining it was hard to get them to do any work.

She never made a racist remark about the nurse in question. However, that did not matter to the court.

When the nurse went to court claiming differential treatment compared to whites, the supervisor's racist remarks and racist conduct toward other employees was direct evidence for the court the supervisor had a racially discriminatory state of mind when dealing with the nurse in question.

The nurse complained she was passed over for consideration for a supervisory position, was paid less than whites with the same overall level of competence and was not afforded the same level of concern as whites for her personal safety when her assignments were chosen for her.

Those could have been seen as complicated decisions involving multiple subjective factors. However, the court was not willing to look for possible legitimate reasons behind the supervisor's decisions, given the strong direct evidence of her discriminatory state of mind.

Favoritism / Nepotism

The supervisor also had a practice of hiring her own relatives on a preferential basis. In this case that did not violate any specific anti-nepotism law.

However, if a discrimination case is filed the court can view a decision-maker's history of favoritism as proof of a pattern of employees not being assessed fairly and employment decisions not being made on an impartial basis. **Nealy v. University Health Services, Inc.**, 114 F. Supp. 2d 1358 (S.D. Ga., 2000).