

Racial Bias: Minority Could Not Prove Different Treatment.

An African-American male nurse filed a lawsuit against his employer over a number of grievances he claimed he suffered on the job.

A critical element of a Title VII lawsuit is missing.

Nearly all of the allegations simply go to bad treatment he claims he received, while he fails to reference any non-minority who received better treatment.

UNITED STATES DISTRICT COURT
GEORGIA
April 8, 2015

The US District Court for the Southern District of Georgia dismissed his case.

The Court pointed out that the allegations in the lawsuit pointed to bad treatment he claimed he received from his supervisors.

His allegations only reflected his disagreement with the way a supervisor or manager handled things, including some matters that did not directly affect him.

**Non-Minority Comparator
Is Required To Prove
Race Discrimination**

According to the Court, a minority employee cannot make out a case of race discrimination merely by recounting unpleasant work experiences.

To succeed with a lawsuit the minority employee must be able to point to at least one comparator, a non-minority employee who received better treatment.

The nurse in this case claimed that he was denied his work breaks while others received theirs, but those others included both minority and non-minority coworkers. He was told he had to purchase his own uniform for work, but at the same time he admitted that, of two other male employees who were not told to purchase uniforms, one was African-American and one was Caucasian. Dawkins v. J.C. Lewis, 2015 WL 1607989 (S.D. Ga., April 8, 2015).

Contraception: Nurse Midwife Can Sue For Religious Discrimination.

About to graduate and take her boards to become an advanced practice nurse practitioner, an applicant contacted a US Public Health Service family health center about a posted job opening for a certified nurse midwife.

She was expressly told she would not be considered because she was a member of the American Association of Pro-Life Obstetricians and Gynecologists and opposed hormonal contraception.

The anti-discrimination language in the US Public Health Service Act does not allow an employee or applicant to sue for discrimination.

However, this lawsuit is viable under Title VII of the US Civil Rights Act, which prohibits religious discrimination in employment.

UNITED STATES DISTRICT COURT
FLORIDA
April 10, 2015

Healthcare facilities that benefit from certain Federal funding are prohibited from discriminating against healthcare workers who refuse to perform or assist in sterilization or abortion procedures that violate their religious beliefs or moral convictions.

Nevertheless, the US District Court for the Middle District of Florida ruled that the Federal statute that outlaws discrimination by Public Health Service-funded providers against healthcare workers with right-to-life beliefs does not allow those workers themselves to sue for damages.

However, if the nurse can establish that she had the qualifications for the position for which she was rejected, she has a case of garden-variety religious discrimination under Title VII of the US Civil Rights Act, which applies across the board to most US employers. Hellwege v. Tampa, 2015 WL 1608827 (M.D. Fla., April 10, 2015).

Seventh Day Adventist: Court Discusses Nurse's Rights.

A nurse who was a member of the Seventh Day Adventist Church had been working for a number of years under an arrangement with her employer in which she was not scheduled to work during the time interval between sunset on Friday and sunset on Saturday.

That was her religion's Sabbath and a time during which her religion strictly prohibited her from working.

When a new supervisor took over, the existing arrangement was no longer honored and the nurse found herself scheduled for a twelve-hour Friday day shift that extended past sunset.

By this time the nurse had accumulated a series of disciplinary write-ups for attendance issues that did not involve the Sabbath arrangement. There also had been problems scheduling around medical appointments for her child that did not qualify as serious health conditions under the US Family and Medical Leave Act. The nurse, an African-American, also complained that she was being treated differently than her Caucasian nurse coworkers.

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Religion includes all aspects of religious observance and practice as well as belief.

An employer must provide reasonable accommodation to an employee's or prospective employee's religious observances or practices unless the employer can demonstrate that the employer is unable to do so because of undue hardship to the conduct of the employer's business.

UNITED STATES DISTRICT COURT
ALABAMA
April 7, 2015