

Sexual Harassment: Male Aide Failed To Prove His Case Against Female Supervisor, Female Charge Nurse.

A male mental health aide filed a sexual harassment lawsuit against the hospital where he had worked claiming he was sexually harassed by his female supervisor and by a female charge nurse.

The US District Court for the Southern District of Texas accepted the basic premise that a male employee can be considered a victim of sexual harassment by a female supervisor or a female co-worker, but the Court dismissed the case because the evidence was lacking that the hospital violated his rights under the law.

Supervisor

The employee had a month-long sexual affair with his supervisor. He claimed he went along with it because he was afraid of losing his job. He was fired from his job four months after he broke it off.

The Court pointed out that the employee never reported a complaint of sexual harassment until two months after he broke off the relationship, and only after he was in trouble for insubordination and poor attendance. Employees are required to complain at once about sexual harassment, if they want to preserve their rights.

The hospital took prompt action as soon as management became aware of his allegations of sexual harassment. The day he finally voiced his complaint the supervisor was interviewed and admitted having an affair with her subordinate.

Without resolving the issue of consent versus lack of consent, the hospital suspended the supervisor that same day so she would not return to work at the facility as the victim's supervisor the next day.

Charge Nurse

The employee's charge nurse admitted she was guilty of making a few isolated crude sexual comments.

The Court ruled, however, that the comments were not serious enough to create a sexually hostile working environment or to alter in a significant way the terms and conditions of the employee's employment. Giron v. Texas West Oaks Hosp., 2011 WL 486256 (S.D. Tex., February 7, 2011).

It is possible for a male employee to be considered a victim of sexual harassment by a female supervisor or a female co-worker.

Sexual harassment on the job is a form of sex discrimination that is outlawed by the US Civil Rights Act and state laws.

The charge nurse made several sexually inappropriate comments over the course of seven months.

This falls below the threshold for a successful sexual-harassment lawsuit.

Teasing, offhand comments and isolated incidents are not considered discriminatory.

The employee did not feel threatened or humiliated by the remarks and they did not interfere with his ability to continue working.

As to the supervisor, once hospital management finally was informed of their affair the supervisor was suspended on the spot for having sex with a subordinate.

It is not conclusive that breaking off the affair months earlier had anything to do with his termination.

UNITED STATES DISTRICT COURT
TEXAS

February 7, 2011
