

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Harris v. Cobra Construction

273 F. App'x 193 (3d Cir. 2008) · Decided April 15, 2008

SUMMARY

The United States Court of Appeals for the Third Circuit affirmed summary judgment for Cobra Construction in an employment discrimination action brought under Title VII and the Pennsylvania Human Relations Act. The court held that a single racially derogatory outburst and threat did not establish intentional employment discrimination, a hostile work environment, or constructive discharge.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Chagares
JURISDICTION	Federal
DECIDED	April 15, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed the District Court's order granting Cobra Construction's motion for summary judgment on their Title VII and Pennsylvania Human Relations Act employment-discrimination claims.
STANDARD OF REVIEW	Review of summary judgment is plenary. Summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law; factual doubts and reasonable inferences are resolved in favor of the nonmoving party.
PRECEDENTIAL VALUE	unpublished
PARTIES	Keith Harris, Dennis Alexander v. Cobra Construction

TOPICS

- employment discrimination
- title vii
- racial discrimination
- hostile work environment
- appellate procedure

PRACTICE AREAS

- employment law
- civil rights
- construction law

QUESTIONS PRESENTED

1. Whether the racial slur and death threat constituted direct evidence of intentional employment discrimination under Title VII and the PHRA.
2. Whether the alleged incident was sufficiently severe or pervasive to support a hostile work environment claim.
3. Whether the evidence established constructive discharge.
4. Whether the District Court properly granted summary judgment to Cobra Construction.

HOLDINGS

1. The alleged racial remarks and threats did not constitute direct evidence of intentional employment discrimination because the record did not show that Orlando directed the conduct at Harris and Alexander because of racial animus or with an intent to discriminate based on race.
2. The plaintiffs failed to present evidence of discrimination that was sufficiently severe or pervasive to support a hostile work environment claim.
3. The plaintiffs failed to establish constructive discharge.
4. The standard for employer liability under the Pennsylvania Human Relations Act is the same as the standard under Title VII.

KEY QUOTATIONS

“The fact that Orlando identified [their] race in the course of threatening them does not convert the threat from one of unbridled anger and explosiveness, to one of racial discrimination.” (195)

“Because appellants have not presented any evidence of racial discrimination in the workplace, their constructive discharge claim must also fail.” (196)

FACTUAL BACKGROUND

Harris and Alexander, two African-American construction workers, alleged that Cobra Construction owner Joseph Orlando pointed a sawed-off shotgun at them, threatened to kill them, used racial slurs, and ordered them back to work. They were the only African Americans present during the incident and stopped working for Cobra shortly afterward because they feared for their safety. The alleged incident was the only occasion on which Orlando had spoken to them, and the record did not show that the threats were made during a discussion of their work performance or an employment decision.

PROCEDURAL HISTORY

Harris and Alexander filed employment-discrimination complaints with the Pennsylvania Human Relations Commission, which denied them, and workers' compensation claims, which were granted and paid. They then brought this action in the District Court. The District Court granted Cobra Construction summary judgment on the Title VII and PHRA claims, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Jensen v. Potter, 435 F.3d 444, 448 (3d Cir. 2006)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986)
- DL Res., Inc. v. FirstEnergy Solutions Corp., 506 F.3d 209, 216 (3d Cir. 2007)
- McDonnell Douglas Corp. v. Green
- Torre v. Casio, 42 F.3d 825, 829 n.3 (3d Cir. 1994)
- Hankins v. Temple Univ. (Health Sciences Ctr.), 829 F.2d 437, 440-41 (3d Cir. 1987)
- Dillon v. Coles, 746 F.2d 998, 1002-03 (3d Cir. 1984)
- Miles v. M.N.C. Corp., 750 F.2d 867, 870, 875-76 (11th Cir. 1985)
- Lee v. Russell County Board of Education, 684 F.2d 769, 774-75 (11th Cir. 1982)
- Talley v. Bravo Pitino Restaurant, Ltd., 61 F.3d 1241, 1243-44, 1249-50 (6th Cir. 1995)
- Starceski v. Westinghouse Elec. Corp., 54 F.3d 1089, 1096 (3d Cir. 1995)
- Price Waterhouse v. Hopkins, 490 U.S. 228, 277 (1989) (O'Connor, J., concurring)
- Pa. State Police v. Suders, 542 U.S. 129, 146-47 (2004)
- Aman v. Cort Furniture Rental Corp., 85 F.3d 1074, 1084 (3d Cir. 1996)
- Goss v. Exxon Office Sys. Co., 747 F.2d 885, 888 (3d Cir. 1984)
- Knabe v. Boury Corp., 114 F.3d 407, 410 n.5 (3d Cir. 1997)