

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Young v. Bellofram Corp., 227 W. Va. 53

705 S.E.2d 560 (2010) · No. No. 35439 · Decided November 5, 2010

SUMMARY

The Supreme Court of Appeals of West Virginia reversed a circuit court judgment finding that Bellofram Corporation discriminated against Lynda Young on the basis of age and gender under the West Virginia Human Rights Act. The court held that Young failed to establish a prima facie case because the alleged comparator was within the same protected age class and was not disciplined for comparable conduct. The court also held that Bellofram was permitted to terminate Young for failing to address subordinate employees' harassment and reversed the awards of damages, attorney's fees, and costs.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	West Virginia
DECIDED	November 5, 2010
DOCKET	No. 35439
DISPOSITION	reversed
PROCEDURAL POSTURE	Employers appealed from a circuit court judgment entered after a bench trial finding that they discriminated against and wrongfully terminated Young on the basis of age and gender under the West Virginia Human Rights Act and awarding compensatory damages, prejudgment interest, attorney's fees, and costs.
STANDARD OF REVIEW	In an appeal from a bench trial, the ultimate disposition is reviewed for abuse of discretion, underlying factual findings are reviewed for clear error, and questions of law are reviewed de novo. Deference may evaporate when the trial court fails to consider a relevant factor, commits an error of judgment in weighing proper factors, or fails to exercise discretion.
PRECEDENTIAL VALUE	Published precedential opinion

PARTIES

Bellofram Corporation, d/b/a Marsh Bellofram Corporation, Joseph Colletti v. Lynda Young

TOPICS

employment discrimination

wrongful termination

age discrimination

appellate procedure

damages

PRACTICE AREAS

Employment discrimination

Wrongful termination

Appellate review

Employment remedies

QUESTIONS PRESENTED

1. Whether Young established a prima facie case of age discrimination under the West Virginia Human Rights Act.
2. Whether Young established a prima facie case of gender discrimination by showing that a similarly situated employee outside her protected group received less severe discipline for similar conduct.
3. Whether the circuit court clearly erred in finding that Bellofram's stated reason for terminating Young was pretextual because Bellofram did not follow its progressive-discipline policy.
4. Whether the circuit court's discrimination judgment and associated damages and attorney's-fee awards should be reversed.

HOLDINGS

1. Young failed to establish a prima facie case of age discrimination because the employee she identified as a comparator, Donnie Shuman, was also over age forty and therefore belonged to the same protected age class.
2. Young failed to establish a prima facie case of gender discrimination because Shuman was not shown to have engaged in conduct similar in severity or kind to Young's failure to address racial and sexual harassment by subordinates.
3. Bellofram was not required to apply its general progressive-discipline policy because its sexual-harassment policy permitted dismissal, and Young acknowledged that termination could be appropriate for a supervisor who knew of subordinate misconduct and failed to stop it.
4. Bellofram had the right to terminate Young to protect itself from potential liability arising from the hostile work environment created by her failure to address known harassing conduct.

KEY QUOTATIONS

"In summary, we determine that Ms. Young failed to control the harassing behavior of her subordinates towards other employees; therefore, Bellofram had the right to terminate her employment to protect itself from liability pertaining to the work environment created by Ms. Young's inactions." (569)

"We find that the lower court was clearly wrong in finding that Ms. Young proved a prima facie case of age and/or gender discrimination." (569)

FACTUAL BACKGROUND

Young worked for Bellofram from 1994 and was promoted to second-shift supervisor in 2004 at age fifty-nine. Employees reported that several subordinates engaged in racial, sexual, threatening, and other harassing conduct, and the evidence indicated that Young knew of some of the conduct and failed to stop or report it. After internal and third-party investigations, Bellofram terminated Young for failing to enforce its anti-harassment policy. The circuit court found age and gender discrimination, reasoning in part that male supervisor Donnie Shuman had received less severe discipline, but the Supreme Court concluded that Shuman's conduct and circumstances were not comparable.

PROCEDURAL HISTORY

The Circuit Court of Hancock County found in Young's favor after a bench trial, concluding that she established a prima facie case of age and gender discrimination and that Bellofram's stated reason for terminating her was pretextual. The circuit court awarded Young lost wages and benefits, prejudgment interest, and attorney's fees and costs. Bellofram appealed, and the Supreme Court of Appeals of West Virginia reversed.

DISPOSITION

reversed

CASES CITED

- Public Citizen, Inc. v. First National Bank, 198 W. Va. 329, 480 S.E.2d 538 (1996)
- Brown v. Gobble, 196 W. Va. 559, 474 S.E.2d 489 (1996)
- Shepherdstown Volunteer Fire Department v. State ex rel. State of West Virginia Human Rights Commission, 172 W. Va. 627, 309 S.E.2d 342 (1983)
- Conaway v. Eastern Associated Coal Corp., 178 W. Va. 164, 358 S.E.2d 423 (1986)
- Barefoot v. Sundale Nursing Home, 193 W. Va. 475, 457 S.E.2d 152 (1995)
- State ex rel. State of West Virginia Human Rights Commission v. Logan-Mingo Area Mental Health Agency, Inc., 174 W. Va. 711, 329 S.E.2d 77 (1985)
- Powell v. Wyoming Cablevision, Inc., 184 W. Va. 700, 403 S.E.2d 717 (1991)
- Birthisel v. Tri-Cities Health Services Corp., 188 W. Va. 371, 424 S.E.2d 606 (1992)
- Paxton v. Crabtree, 184 W. Va. 237, 400 S.E.2d 245 (1990)
- McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973)
- Texas Department of Community Affairs v. Burdine, 450 U.S. 248, 101 S. Ct. 1089, 67 L. Ed. 2d 207 (1981)
- West Virginia Institute of Technology v. West Virginia Human Rights Commission, 181 W. Va. 525, 383 S.E.2d 490 (1989)

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