

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Joyce A.H. Keyes v. Secretary of the Navy, et al.

47 Fair Empl. Prac. Cas. 891 (1st Cir. 1988) · No. No. 87-1707 · Decided August 10, 1988

SUMMARY

The United States Court of Appeals for the First Circuit affirmed the district court’s rejection of Joyce Keyes’s claims that the Navy and Office of Personnel Management discriminated against her based on race and sex in selecting a supervisory social service analyst. The court held that OPM properly awarded tentative veterans’ preference points to the successful applicant, an active-duty servicemember nearing honorable discharge. It also concluded that Keyes failed to show that the defendants’ stated, nondiscriminatory reasons for selecting the applicant were pretexts for discrimination.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Selya, Circuit Judge; Campbell, Chief Judge; Caffrey, Senior District Judge, sitting by designation
JURISDICTION	Federal
DECIDED	August 10, 1988
DOCKET	No. 87-1707
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of the United States District Court for the District of Puerto Rico rejecting the plaintiff's Title VII race- and sex-discrimination claims and her challenge to the award of veterans' preference points in a federal hiring process.
STANDARD OF REVIEW	Findings of fact, including findings concerning discriminatory intent, are reviewed for clear error under Federal Rule of Civil Procedure 52(a). The appellate court may not reverse where the district court's account of the evidence is plausible, even if the appellate court might have weighed the evidence differently.
PRECEDENTIAL VALUE	Published, precedential First Circuit opinion.
PARTIES	Joyce A.H. Keyes v. Secretary of the Navy, Office of Personnel Management

TOPICS

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QUESTIONS PRESENTED

1. Whether the Office of Personnel Management lawfully awarded tentative veterans' preference points to an applicant who remained on active military duty but was approaching honorable discharge and would be available by the deferred appointment date.
2. Whether the Navy and the Office of Personnel Management intentionally discriminated against Keyes because of her race or sex in selecting Atkins for the supervisory social service analyst position.
3. Whether the district court clearly erred in finding that the hiring decision was supported by legitimate, nondiscriminatory reasons and was not motivated by racial or sexual animus.

HOLDINGS

1. The Office of Personnel Management properly awarded Atkins tentative veterans' preference points because his separation from active military service was sufficiently imminent, his expected honorable discharge made him eligible for the preference, and OPM's interpretation of the governing statutes and regulations was reasonable.
2. Keyes failed to prove that defendants' legitimate, nondiscriminatory reasons for selecting Atkins were pretexts for racial or sex discrimination.
3. The district court's findings that Atkins was qualified, that the candidates were similarly treated in the appraisal process, and that the selection was not motivated by discriminatory intent were not clearly erroneous.

KEY QUOTATIONS

“If the district court's account of the evidence is plausible in light of the record reviewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently.” (853 F.2d at 1018)

“Errors in judgment are not the stuff of Title VII transgressions--so long as the "mistakes" are not a coverup for invidious discrimination.” (853 F.2d at 1023)

FACTUAL BACKGROUND

The Navy advertised a supervisory social service analyst position at Roosevelt Roads, Puerto Rico. Keyes, a Black woman with a doctoral degree, and Lieutenant James Atkins, a white male with a master's degree and military and human-resources experience, received identical initial appraisal scores of 86. After the hiring date was deferred, the Office of Personnel Management awarded Atkins five tentative veterans' preference points,

placed him ahead of Keyes on the eligibility register, and refused the Navy's request to pass him over after a Navy selection board ranked Keyes first. Atkins was selected after his honorable discharge, and Keyes sued alleging improper veterans' preference and race- and sex-based discrimination.

PROCEDURAL HISTORY

Keyes sued the Navy and later joined the Office of Personnel Management, alleging that defendants discriminated against her based on race and sex by selecting Lieutenant James Atkins for a supervisory social service analyst position and improperly awarding him veterans' preference points. The parties stipulated to the facts and submitted the matter to the district court as a case stated under Federal Rule of Civil Procedure 52(a). The district court rejected all claims, and the First Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Anderson v. City of Bessemer City, 470 U.S. 564 (1985)
- Hallquist v. Local 276, Plumbers and Pipefitters Union, 843 F.2d 18, 22 (1st Cir. 1988)
- In re Tully, 818 F.2d 106, 109 (1st Cir. 1987)
- Irons v. FBI, 811 F.2d 681, 684, 689 (1st Cir. 1987)
- Gierbolini-Colon v. Aponte-Roque, 848 F.2d 331, 334-35 (1st Cir. 1988)
- Clarke v. Securities Industry Ass'n, 479 U.S. 388 (1987)
- Ford Motor Credit Co. v. Milhollin, 444 U.S. 555, 566 (1980)
- Massachusetts Department of Education v. United States Department of Education, 837 F.2d 536, 541 (1st Cir. 1988)
- Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844 (1984)
- Sprandel v. Secretary of HHS, 838 F.2d 23, 25 (1st Cir. 1988) (per curiam)
- Young v. Community Nutrition Institute, 476 U.S. 974 (1986)
- C.I.R. v. Connelly, 338 U.S. 258, 260 (1949)
- Mitchell v. Cohen, 333 U.S. 411, 418-20 & nn. 12-13 (1948)
- Personnel Administrator v. Feeney, 442 U.S. 256, 281 (1979)
- Furnco Construction Co. v. Waters, 438 U.S. 567, 577 (1978)
- Oliver v. Digital Equipment Corp., 846 F.2d 103, 106-07 (1st Cir. 1988)
- McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802, 804 (1973)
- Texas Department of Community Affairs v. Burdine, 450 U.S. 248, 254-56 (1981)
- Gray v. New England Telephone and Telegraph Co., 792 F.2d 251, 255 (1st Cir. 1986)
- Dea v. Look, 810 F.2d 12, 15-16 (1st Cir. 1987)
- White v. Vathally, 732 F.2d 1037, 1042 (1st Cir. 1984), cert. denied, 469 U.S. 933 (1984)
- Loeb v. Textron, Inc., 600 F.2d 1003, 1012 n.6 (1st Cir. 1979)

- Kier v. Commercial Union Insurance Cos., 808 F.2d 1254, 1259 (7th Cir. 1987), cert. denied, 484 U.S. 1006 (1988)
- Hosemann v. Technical Materials, Inc., 554 F. Supp. 659, 667 (D.R.I. 1982)
- Mas Marques v. Digital Equipment Corp., 637 F.2d 24, 26-27 (1st Cir. 1980)
- United States v. United States Gypsum Co., 333 U.S. 364, 395 (1948)

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