UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Carleen Black v. Pan American Laboratories, L.L.C.; Pamlab, L.L.C.

646 F.3d 254 (5th Cir. 2011) · No. No. 09-51092 · Decided July 12, 2011

SUMMARY

Carleen Black sued Pamlab under Title VII and the Texas Commission on Human Rights Act, alleging sex discrimination in sales quotas and termination, as well as retaliation. The Fifth Circuit affirmed the liability verdict and held that Title VII's compensatory and punitive damages cap applies per litigant, not per claim. It reversed and remanded the quota-claim back-pay award for recalculation based on the difference between Black's actual commissions and those she would have earned under the male comparator's quota.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Edith Brown Clement; Edith H. Jones; Dennis
JURISDICTION	Federal
DECIDED	July 12, 2011
DOCKET	No. 09-51092
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Black sued her former employer under Title VII and the Texas Commission on Human Rights Act. After a jury verdict for Black on sex-discrimination, retaliation, and sales-quota claims, the district court denied renewed judgment as a matter of law, reduced the damages under statutory caps, and reduced duplicative back pay. The employer appealed and Black cross-appealed.
STANDARD OF REVIEW	Denial of renewed judgment as a matter of law was reviewed de novo, viewing the evidence and reasonable inferences in the light most favorable to the verdict. The grant or denial of remittitur was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Pan American Laboratories, L.L.C., Pamlab, L.L.C. v. Carleen Black

TOPICS

title vii | employment discrimination | retaliation | damages | appellate procedure

PRACTICE AREAS

employment law | civil rights | remedies | statutory interpretation | appellate procedure

QUESTIONS PRESENTED

1. Whether sufficient evidence supported the jury's finding that sex was a motivating factor in Pamlab's termination of Black.
2. Whether sufficient evidence supported the jury's finding that Pamlab discriminated against Black by assigning her a higher sales quota than a similarly situated male employee.
3. Whether the quota-claim back pay award was supported by the theory submitted to and decided by the jury.
4. Whether sufficient evidence supported the jury's punitive-damages award.
5. Whether Title VII's compensatory and punitive damages cap applies per claim or per complaining party in a single action.

HOLDINGS

1. The evidence was sufficient for a reasonable jury to find that Black's sex was a motivating factor in Pamlab's decision to terminate her; the district court properly denied renewed JMOL.
2. Sufficient evidence supported the jury's finding that Pamlab discriminated against Black by assigning her a higher sales quota than a similarly situated male employee.
3. The jury's $150,000 back pay award on the quota claim was unsupported because the evidence supported only the disparate-treatment theory submitted to the jury, under which back pay had to be calculated using Livingston's quota rather than a zero-quota calculation.
4. The cap in 42 U.S.C. § 1981a(b) applies per complaining party in an action, not separately to each legal claim. The district court properly limited Black's total compensatory and punitive damages to $200,000.

KEY QUOTATIONS

> *"For the purposes of Title VII's damages cap, the relevant "unit of accounting is the litigant, not the legal theory.""* (15)

> *"For the foregoing reasons, the jury's $150,000 back pay award for Black's quota claim is REVERSED and REMANDED for recalculation. The remainder of district court's judgment is AFFIRMED."* (15)

FACTUAL BACKGROUND

Carleen Black worked as a pharmaceutical sales representative for Pamlab from 2003 until her termination in April 2006. She was assigned a higher sales quota than a male representative in an adjacent Las Vegas territory and complained about the quota after Pamlab management had told her she would not have one. Pamlab executives and managers made repeated sexually derogatory comments about Black, and the company

terminated her after she missed events at a national sales meeting. A jury found that sex discrimination motivated the quota and termination decisions and that Pamlab retaliated against Black for her complaints.

PROCEDURAL HISTORY

Black initially filed suit in Texas state court, and Pamlab removed the action to the United States District Court for the Western District of Texas. A jury found for Black on her quota, termination, and retaliation claims and awarded compensatory damages, punitive damages, and back pay. The district court denied Pamlab's renewed JMOL motion, reduced the damages under Title VII's and the TCHRA's cap, eliminated duplicative termination-related back pay, and entered judgment. The Fifth Circuit affirmed the liability verdicts and damages-cap ruling but reversed and remanded the quota-claim back pay award for recalculation.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must recalculate Black's quota-claim back pay using the commissions she would have earned under Livingston's quota rather than a zero-quota calculation. The remainder of the district court's judgment is affirmed.

CASES CITED

- Giles v. General Electric Co., 245 F.3d 474, 492 (5th Cir. 2001)
- Perez v. Texas Department of Criminal Justice, 395 F.3d 206, 215 (5th Cir. 2004)
- Wyvill v. United Cos. Life Insurance Co., 212 F.3d 296, 301, 304 (5th Cir. 2000)
- Waymire v. Harris County, 86 F.3d 424, 427 (5th Cir. 1996)
- Consolidated Companies v. Lexington Insurance Co., 616 F.3d 422, 435 (5th Cir. 2010)
- United States v. Caldwell, 586 F.3d 338, 341 (5th Cir. 2009)
- Valdez v. San Antonio Chamber of Commerce, 974 F.2d 592, 596 (5th Cir. 1992)
- McCoy v. City of Shreveport, 492 F.3d 551, 556-557, 559 (5th Cir. 2007)
- Rachid v. Jack in the Box, Inc., 376 F.3d 305, 312 (5th Cir. 2004)
- Smith v. Xerox Corp., 602 F.3d 320, 326 (5th Cir. 2010)
- Palasota v. Haggar Clothing Co., 342 F.3d 569, 574 (5th Cir. 2003)
- Armstrong ex rel. Armstrong v. Brookdale University Hospital & Medical Center, 425 F.3d 126, 138 (2d Cir. 2005)
- Galena v. Leone, 638 F.3d 186, 201-202 (3d Cir. 2011)
- Saucier v. Plummer, 611 F.3d 286, 288 (5th Cir. 2010)
- EEOC v. Waffle House, Inc., 534 U.S. 279, 297 (2002)
- West v. Nabors Drilling USA, Inc., 330 F.3d 379, 394-395 (5th Cir. 2003)
- Hudson v. Reno, 130 F.3d 1193, 1200 (6th Cir. 1997)

- Fogg v. Ashcroft, 254 F.3d 103, 106-108 (D.C. Cir. 2001)
- Smith v. Chicago School Reform Board of Trustees, 165 F.3d 1142, 1150 (7th Cir. 1999)
- Baty v. Willamette Industries, Inc., 172 F.3d 1232, 1245-1246 (10th Cir. 1999)
- Dunn-McCampbell Royalty Interest, Inc. v. National Park Service, 630 F.3d 431, 438 (5th Cir. 2011)

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