

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Charles Gunby, Jr. v. Pennsylvania Electric Company

840 F.2d 1108 (3d Cir. 1988) · No. Nos. 86-3707, 86-3723 · Decided March 4, 1988

SUMMARY

The Third Circuit reviewed appeals arising from a jury verdict finding Pennsylvania Electric Company liable under 42 U.S.C. § 1981 for intentionally discriminating against Charles Gunby, Jr. in failing to promote him, together with the district court’s disposition of his Title VII claim. The court upheld the liability finding and back-pay award, but vacated the emotional-distress award for insufficient evidentiary support. It also held that the district court’s injunction alone was not an adequate Title VII make-whole remedy and remanded for further findings and equitable relief.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Becker, Circuit Judge; Higginbotham, Circuit Judge; Barry, District Judge, sitting by designation
JURISDICTION	Federal
DECIDED	March 4, 1988
DOCKET	Nos. 86-3707, 86-3723
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Cross-appeals from a jury verdict for Gunby on his 42 U.S.C. § 1981 race-discrimination claim and from the district court's equitable decree in the companion Title VII action. Pennsylvania Electric challenged the sufficiency of the evidence supporting liability and damages; Gunby challenged the adequacy of the Title VII remedy.
STANDARD OF REVIEW	The court reviewed the sufficiency of the evidence supporting the jury's verdict deferentially, asking whether sufficient evidence existed on which the jury could rationally have based its verdict. It reviewed the district court's Title VII equitable relief for compliance with the statute's make-whole objective and for abuse or improper exercise of equitable discretion.
PRECEDENTIAL VALUE	published precedential federal appellate opinion
PARTIES	Charles Gunby, Jr., Pennsylvania Electric Company

TOPICS

racial discrimination

title vii

section 1983

damages

appellate procedure

PRACTICE AREAS

employment law

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QUESTIONS PRESENTED

1. Whether sufficient evidence supported the jury's finding that Pennsylvania Electric intentionally discriminated against Gunby because of his race in denying him the Manager-Employment/EEO/AA position.
2. Whether sufficient evidence supported the jury's back-pay award.
3. Whether the evidence supported an award of emotional-distress damages under 42 U.S.C. § 1981.
4. Whether the district court's Title VII injunction against future discrimination, without an upgrade, salary adjustment, front pay, or comparable equitable relief, satisfied Title VII's make-whole requirement.
5. Whether Pennsylvania Electric's statute-of-limitations challenge to Gunby's § 1981 claim was foreclosed by then-controlling precedent.

HOLDINGS

1. The evidence was sufficient for the jury to find that Pennsylvania Electric intentionally discriminated against Gunby because of his race when it denied him the grade-level-20 managerial position.
2. The jury's \$22,000 back-pay award was supported by sufficient evidence and was properly sustained.
3. The \$15,000 emotional-distress award had to be set aside because Gunby presented no specific evidence that he suffered emotional distress as a result of being denied the Manager-Employment/EEO/AA position.
4. Title VII required a meaningful make-whole remedy, and the district court erred by merely enjoining future discrimination without determining and awarding effective relief for the injury caused by the discriminatory nonpromotion.
5. Pennsylvania Electric's statute-of-limitations challenge was rejected under the controlling precedent applicable to post-1977 § 1981 claims.

KEY QUOTATIONS

"We decline Gunby's invitation to presume damages as though this case involved defamation rather than employment discrimination." (¶ 65)

"A central purpose of Title VII relief is "to make persons whole for injuries suffered on account of unlawful employment discrimination,"" (¶ 67)

"Because we hold that Title VII requires "make whole" relief, we will vacate the district court's equitable relief order prohibiting future discrimination against Gunby and remand for further findings, development of the record and an order granting full equitable relief." (¶ 78)

FACTUAL BACKGROUND

Charles Gunby, a Black employee with extensive personnel and equal-employment-opportunity experience, had worked for Pennsylvania Electric since 1973 and had received generally favorable evaluations and promotions. In December 1982, the company did not promote him to a newly created grade-level-20 Manager-Employment/EEO/AA position, instead giving the position to Frank Hager, a white accountant with comparatively little personnel-administration experience. Gunby was instead transferred to a grade-level-16 corporate personnel-services position. The jury found that race was the reason for the failure to promote him, but the record contained no specific evidence that Gunby suffered emotional distress because of the denied managerial position.

PROCEDURAL HISTORY

Gunby sued Pennsylvania Electric after he was not promoted to a newly created Manager-Employment/EEO/AA position. A jury found intentional race discrimination and awarded back pay and emotional-distress damages under § 1981. The district court entered judgment on the Title VII claim, enjoined further racial discrimination, but declined to upgrade Gunby's position or provide an equivalent remedy. The Third Circuit affirmed the back-pay award, reversed the emotional-distress award, vacated the Title VII equitable-relief order, and remanded for further findings and development of the record concerning an effective make-whole remedy.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court was directed to conduct further findings, permit development of the record if necessary concerning Pennsylvania Electric's salary and grade-level structure, determine where Gunby likely would have fit had he received the grade-level-20 position, and enter an effective full equitable remedy under Title VII. The emotional-distress award was reversed; the back-pay award was affirmed.

CASES CITED

- Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981)
- McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)
- Cooper v. Federal Reserve Bank of Richmond, 467 U.S. 867 (1984)
- Chipollini v. Spencer Gifts, Inc., 814 F.2d 893, 898 (3d Cir. 1987)
- Lewis v. University of Pittsburgh, 725 F.2d 910, 914-16 (3d Cir. 1983)
- E.E.O.C. v. Eazor Express Co., 499 F. Supp. 1377, 1388 (W.D. Pa. 1980), aff'd mem., 659 F.2d 1066 (3d Cir. 1981)
- Goss v. Exxon Office Systems Co., 747 F.2d 885 (3d Cir. 1984)
- Johnson v. Railway Express Agency, 421 U.S. 454, 460 (1975)
- Carey v. Piphus, 435 U.S. 247 (1978)
- Spence v. Board of Education of Christina School District, 806 F.2d 1198, 1200 (3d Cir. 1986)

- Ramsey v. American Air Filter Co., 772 F.2d 1303, 1313 (7th Cir. 1985)
- Erebia v. Chrysler Plastics Products Corp., 772 F.2d 1250, 1259 (6th Cir. 1985)
- Block v. R.H. Macy & Co., 712 F.2d 1241, 1245 (8th Cir. 1983)
- Williams v. Trans-World Airlines, 660 F.2d 1267, 1272 (8th Cir. 1981)
- Smith v. Anchor Building Corp., 536 F.2d 231, 236 (8th Cir. 1976)
- Seaton v. Sky Realty Co., 491 F.2d 634, 636 (7th Cir. 1974)
- Ford Motor Co. v. E.E.O.C., 458 U.S. 219, 226 (1982)
- Albemarle Paper Co. v. Moody, 422 U.S. 405, 416-18 (1975)
- Franks v. Bowman Transportation Co., 424 U.S. 747, 763-64, 771 (1976)
- Gurmankin v. Costanzo, 626 F.2d 1115 (3d Cir. 1980)
- Rodriguez v. Taylor, 569 F.2d 1231 (3d Cir. 1977)
- Richerson v. Jones, 551 F.2d 918 (3d Cir. 1977)
- Kunda v. Muhlenberg College, 621 F.2d 532, 549 (3d Cir. 1980)
- Goodman v. Lukens Steel Co., 777 F.2d 113 (3d Cir. 1985), *aff'd*, 482 U.S. 656 (1987)
- Al-Khazraji v. St. Francis College, 784 F.2d 505 (3d Cir. 1986), *aff'd*, 481 U.S. 604 (1987)