

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Nunez-Palomarez v. Verizon Communication Inc., et al.

Nunez-Palomarez · No. 23-cv-04524-WHO · Decided June 26, 2025

SUMMARY

The United States District Court for the Northern District of California granted Cellco Partnership and Verizon Communications, Inc.'s motion for summary judgment in an employment discrimination and retaliation action brought by Martin Nunez-Palomarez. The court concluded that the evidence did not establish race or national-origin discrimination, retaliation, a causal link between protected complaints and adverse actions, or constructive discharge. The action was dismissed in its entirety.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Northern District of California                                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | William H. Orrick                                                                                                                                                                                                                                                                                                                                |
| JURISDICTION          | United States District Court for the Northern District of California                                                                                                                                                                                                                                                                             |
| DECIDED               | June 26, 2025                                                                                                                                                                                                                                                                                                                                    |
| DOCKET                | 23-cv-04524-WHO                                                                                                                                                                                                                                                                                                                                  |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Defendants moved for summary judgment on plaintiff's Title VII discrimination and retaliation claims. The court granted the motion and dismissed the action in its entirety.                                                                                                                                                                     |
| STANDARD OF REVIEW    | Summary judgment is appropriate when the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views reasonable factual inferences in favor of the nonmovant, but conclusory and speculative testimony is insufficient to create a genuine issue for trial. |
| PRECEDENTIAL VALUE    | unpublished district court order; nonprecedential                                                                                                                                                                                                                                                                                                |
| PARTIES               | Martin Nunez-Palomarez v. Verizon Communication Inc., Cellco Partnership                                                                                                                                                                                                                                                                         |

TOPICS

- employment discrimination
- title vii
- retaliation
- constructive discharge
- summary judgment

## PRACTICE AREAS

employment law

civil rights

civil procedure

## QUESTIONS PRESENTED

1. Whether Verizon Communications, Inc. could be held liable under Title VII when it was not plaintiff's employer.
2. Whether plaintiff presented sufficient evidence to establish a prima facie Title VII race or national-origin discrimination claim based on territory assignments or Managing Partner selections.
3. Whether defendants' stated legitimate, nondiscriminatory reason for the challenged employment decisions was rebutted as pretextual.
4. Whether plaintiff presented sufficient evidence of a causal link between protected activity and the alleged adverse employment actions to sustain a Title VII retaliation claim.
5. Whether plaintiff's resignation resulted from objectively intolerable working conditions sufficient to constitute constructive discharge.

## HOLDINGS

1. Verizon Communications, Inc. was entitled to summary judgment because it never employed Nunez and there was no evidence that it controlled his employment.
2. Nunez failed to establish a prima facie case of race or national-origin discrimination concerning his territory assignments or the Managing Partner positions.
3. Even assuming Nunez established a prima facie case, Cellco articulated a legitimate, nondiscriminatory reason for the challenged decisions—Nunez's comparatively poor performance—and Nunez failed to show that reason was pretextual.
4. Nunez failed to establish a prima facie retaliation claim because the record did not show a causal link between his protected complaints and the alleged adverse employment actions.
5. Nunez did not establish constructive discharge because the record contained no evidence that he was subjected to objectively intolerable working conditions or knowingly allowed to endure them.

## KEY QUOTATIONS

*“Summary judgment is GRANTED in the defendants’ favor and this action is dismissed in its entirety.” (1)*

*“Nunez cannot make a Title VII claim against Verizon because there was never an employment relationship between them.” (22)*

*“The record does not show a causal link between Nunez’s complaints and the adverse employment actions that he challenges” (15)*

## FACTUAL BACKGROUND

Martin Nunez-Palomarez, who is Hispanic, worked for Cellco Partnership, doing business as Verizon Wireless, for approximately seven years before resigning in 2022. He claimed that Cellco discriminated against him based

on race or national origin in territory assignments and Managing Partner selections, and retaliated against him after he complained internally about alleged discrimination and unfair business practices. The record showed documented performance deficiencies, including repeated failures to meet sales metrics, while the evidence did not show discriminatory motive, similarly situated comparators treated more favorably, a causal connection between protected activity and adverse actions, or intolerable working conditions. Verizon Communications, Inc. was Cellco's parent but was not Nunez's employer and did not control his employment decisions.

## PROCEDURAL HISTORY

Nunez filed the action on September 1, 2023. The court granted defendants' motion to dismiss with leave to amend, after which Nunez filed a First Amended Complaint and defendants answered. Following discovery disputes and completion of discovery, defendants moved for summary judgment. The court concluded that the evidentiary record did not create a genuine dispute of material fact and granted summary judgment for defendants.

## DISPOSITION

dismissed

## CASES CITED

- Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)
- Anderson v. Liberty Lobby, 477 U.S. 242, 255, 257 (1986)
- Thornhill Publishing Co., Inc. v. GTE Corp., 594 F.2d 730, 738 (9th Cir. 1979)
- Zichko v. Idaho, 247 F.3d 1015, 1020 (9th Cir. 2001)
- Christensen v. CIR, 786 F.2d 1382, 1384 (9th Cir. 1986)
- McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973)
- Texas Department of Community Affairs v. Burdine, 450 U.S. 248, 256 (1981)
- Bradley v. Harcourt, Brace & Co., 104 F.3d 267, 270 (9th Cir. 1996)
- Ray v. Henderson, 217 F.3d 1234, 1240 (9th Cir. 2000)
- Cozzi v. County of Marin, 787 F. Supp. 2d 1047 (N.D. Cal. 2011)
- Merrick v. Farmers Insurance Group, 892 F.2d 1434, 1438 (9th Cir. 1990)
- Pennsylvania State Police v. Suders, 542 U.S. 129, 143-44 (2004)