

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Thomila Nethery v. Quality Care Investors, L.P.

No. No. 19-5499, United States Court of Appeals for the Sixth Circuit (May 28, 2020)

SUMMARY

The Sixth Circuit affirmed summary judgment for the defendant nursing home in a Title VII retaliation claim, holding that the nursing home was not the plaintiff's joint employer because her actual employer retained control over her employment terms. The court also found that the nursing home did not significantly interfere with her access to employment opportunities under **Christopher v. Stouder Memorial Hospital**, as the employer had the sole power to remove her and offered a transfer. The case addresses the limits of joint employer liability and interference with employment opportunities under Title VII.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	Alice M. Batchelder; Helene N. White; Amul R. Thapar
JURISDICTION	Federal
DECIDED	May 28, 2020
DOCKET	No. 19-5499
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from grant of summary judgment
STANDARD OF REVIEW	de novo
PRECEDENTIAL VALUE	unpublished
PARTIES	Thomila Gale Nethery v. Quality Care Investors, L.P.

TOPICS

- employment discrimination
- title vii
- retaliation
- summary judgment
- standard of review
- civil procedure
- appellate procedure

PRACTICE AREAS

- Employment Law
- Civil Rights

QUESTIONS PRESENTED

1. Whether Quality Care was Nethery's joint employer under Title VII.
2. Whether Quality Care interfered with Nethery's access to employment opportunities with Reliant under *Christopher v. Stouder Memorial Hospital*.

HOLDINGS

1. Nethery did not provide sufficient evidence that Quality Care acted as her joint employer.
2. Quality Care did not significantly interfere because Reliant at all times held the sole power to remove Nethery and offer other employment opportunities.

KEY QUOTATIONS

"Summary judgment is appropriate 'if 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.'" (8)

"Entities are joint employers if they 'share or co-determine those matters governing essential terms and conditions of employment.'" (9)

"a non-employer may be held liable under Title VII if it significantly affects an individual's access to employment opportunities with third parties." (11)

FACTUAL BACKGROUND

Nethery worked as a physical therapist assistant at a nursing home operated by Quality Care, but was hired by Reliant Management Group. She reported sexual harassment by her supervisor, Patrick Grubbs, a Reliant employee. Reliant investigated and fired Grubbs. Shortly after, Samantha Mullins, Quality Care's administrator, complained to Reliant that Nethery was not a good fit. Reliant removed Nethery from the facility and offered her a transfer out of state, which she declined, leading to termination of her employment. Nethery sued Quality Care for retaliation under Title VII.

PROCEDURAL HISTORY

The United States District Court for the Eastern District of Tennessee granted summary judgment in favor of Quality Care, holding that Nethery could not bring a Title VII claim because Quality Care was not her joint employer and did not control access to employment opportunities. Nethery appealed.

DISPOSITION

affirmed

CASES CITED

- *Hostettler v. Coll. of Wooster*, 895 F.3d 844 (6th Cir. 2018)
- *McClellan v. Midwest Machining, Inc.*, 900 F.3d 297 (6th Cir. 2018)
- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986)

- Rocheleau v. Elder Living Constr., LLC, 814 F.3d 398 (6th Cir. 2016)
- Swallows v. Barnes & Noble Book Stores, Inc., 128 F.3d 990 (6th Cir. 1997)
- Sanford v. Main St. Baptist Church Manor, Inc., 449 F. App'x 488 (6th Cir. 2011)
- E.E.O.C. v. Skanska USA Bldg., Inc., 550 F. App'x 253 (6th Cir. 2013)
- Carrier Corp. v. NLRB, 768 F.2d 778 (6th Cir. 1985)
- Christopher v. Stouder Memorial Hospital, 936 F.2d 870 (6th Cir. 1991)
- Satterfield v. Tennessee, 295 F.3d 611 (6th Cir. 2002)
- Shah v. Deaconess Hosp., 355 F.3d 496 (6th Cir. 2004)
- Sibley Memorial Hosp. v. Wilson, 488 F.2d 1338 (D.C. Cir. 1973)
- Shehadeh v. Chesapeake & Potomac Tel. Co., 595 F.2d 711 (D.C. Cir. 1978)
- Gomez v. Alexian Bros. Hosp., 698 F.2d 1019 (9th Cir. 1983)
- Keeton v. Flying J, Inc., 429 F.3d 259 (6th Cir. 2005)