

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA
CIRCUIT

Segar v. Smith

238 U.S. App. D.C. 103 (D.C. Cir. 1984) · No. Nos. 82-1541, 82-1590 · Decided June 26, 1984

SUMMARY

The United States Court of Appeals for the District of Columbia Circuit reviewed a Title VII pattern-or-practice discrimination case involving black special agents employed by the Drug Enforcement Administration. The court affirmed the liability determination and the class-wide backpay remedy in principle, but vacated the backpay formula, promotion goals and timetables, and related frontpay remedy for further consideration. It affirmed a preliminary injunction protecting an agent from retaliatory demotion or transfer and affirmed the denial of prejudgment interest.

CASE DETAILS

COURT	United States Court of Appeals for the District of Columbia Circuit
WRITING FOR THE COURT	J. Skelly Wright; Harry T. Edwards; Patricia M. Wald
JURISDICTION	Federal
DECIDED	June 26, 1984
DOCKET	Nos. 82-1541, 82-1590
DISPOSITION	other
PROCEDURAL POSTURE	The United States and the plaintiffs appealed and cross-appealed from liability and remedial rulings in a Title VII class action against the Drug Enforcement Administration.
STANDARD OF REVIEW	The court reviewed factual findings, including the ultimate liability determination, for clear error; reviewed the refusal to reopen the liability determination for abuse of discretion; and reviewed legal issues de novo.
PRECEDENTIAL VALUE	published precedential federal appellate opinion
PARTIES	William French Smith, Attorney General, Drug Enforcement Administration v. Henry W. Segar, et al., Class of black DEA special agents

TOPICS

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QUESTIONS PRESENTED

1. Whether the plaintiffs' statistical and anecdotal evidence was sufficient to establish a pattern or practice of intentional racial discrimination under Title VII.
2. Whether the evidence established disparate impact in DEA's initial grade assignments, work assignments, supervisory evaluations, discipline, and promotion practices.
3. Whether the plaintiffs' regression analyses were legally or methodologically deficient because they did not separately account for additional prior law-enforcement or specialized experience.
4. Whether a prima facie pattern-or-practice case required gross statistical disparities when the plaintiffs lacked credited testimony concerning specific instances of discrimination.
5. Whether DEA's cohort analysis and proposed alternative regression analyses rebutted the plaintiffs' showing of discrimination.
6. Whether the District Court could award class-wide backpay without individualized hearings for all class members.
7. Whether the District Court's particular promotion goals and timetables and related frontpay remedy were appropriate on the evidentiary record.
8. Whether the preliminary injunction barring transfer or demotion of Carl Jackson was justified by evidence of retaliation.
9. Whether the plaintiffs were entitled to prejudgment interest.

HOLDINGS

1. A plaintiff class establishes a sufficient prima facie case when its evidence shows disparities in the treatment of comparably qualified minority and majority employees, eliminates the most common nondiscriminatory explanations, and supports an inference that employment decisions were based on an unlawful discriminatory criterion. Statistical evidence need not be accompanied by anecdotal evidence or show gross disparities when it is sufficiently tailored to the relevant labor pool and statistically significant.
2. A Title VII plaintiff's statistical analysis need not separately include a subjective qualification that cannot realistically be quantified, particularly where the analyzed population has already been selected for the relevant minimum qualifications and the defendant provides no evidence that the omitted qualification is unevenly distributed by race.
3. An employer cannot rebut a strong statistical showing merely through counsel's assertion that an omitted qualification explains the disparity; it must introduce admissible evidence that the asserted nondiscriminatory explanation exists and accounts for the disparity.

4. The District Court correctly found that DEA engaged in a pattern or practice of racial discrimination against black special agents and that DEA's initial grade assignments, work assignments, supervisory evaluations, discipline, and promotion process had disparate impacts on black agents.
5. Although individualized hearings are ordinarily preferred for determining individual Title VII relief, a district court may use a class-wide remedy when pervasive discrimination makes individualized reconstruction impracticable and class-wide relief is necessary to provide effective restitution.
6. The particular promotion goals and timetables ordered by the District Court, and the frontpay remedy expressly linked to them, were inappropriate on the existing factual record and had to be vacated and reconsidered. The court did not hold categorically that such remedies exceed Title VII authority or violate the Fifth Amendment.
7. The preliminary injunction barring Carl Jackson's demotion or transfer was properly affirmed where the evidence supported a high likelihood that adverse employment actions followed his testimony in retaliation for participation in the Title VII litigation.
8. The District Court properly denied the plaintiffs' request for prejudgment interest.

KEY QUOTATIONS

“The days of Bull Connor are largely past; discrimination now works more subtly. Yet its effects are no less pernicious.”

“The analytic application of Title VII's formulaic rules for shifting burdens can come to resemble a furious tennis match.”

“Because DEA has introduced no evidence to support its purported nondiscriminatory explanation, this rebuttal fails as a matter of law.”

“We affirm the District Court's liability determination in its entirety.”

FACTUAL BACKGROUND

The Drug Enforcement Administration employed approximately 2,000 special agents, approximately seven percent of whom were black in 1978. The plaintiffs presented statistical and testimonial evidence that black agents received lower salaries, were more likely to receive lower initial GS grades, were assigned less promotion-enhancing work, received less favorable evaluations, were disciplined more harshly, and were promoted at lower rates. The District Court found that these disparities reflected pervasive racial discrimination and that adverse actions against agent Carl Jackson after his testimony were likely retaliatory.

PROCEDURAL HISTORY

Black DEA special agents and a representative association brought a class action alleging pattern-or-practice and disparate-impact racial discrimination in employment. The District Court for the District of Columbia found discrimination in salary, initial grade assignments, work assignments, supervisory evaluations, discipline, and promotions, and imposed class-wide backpay, promotion goals and timetables, and frontpay. The Court of Appeals affirmed the liability determination, vacated the backpay formula and promotion and frontpay

components of the remedy, affirmed the preliminary injunction protecting Carl Jackson, and affirmed denial of prejudgment interest.

DISPOSITION

other

REMAND INSTRUCTIONS

Remand for reformulation of the class-wide backpay formula and reconsideration of appropriate remedies after vacatur of the promotion goals and timetables and the linked frontpay remedy. The District Court was also expected to resolve the status of the Carl Jackson injunction on remand.

CASES CITED

- Segar v. Civiletti, 508 F. Supp. 690 (D.D.C. 1981)
- International Brotherhood of Teamsters v. United States, 431 U.S. 324 (1977)
- Griggs v. Duke Power Co., 401 U.S. 424 (1971)
- Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981)
- McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)
- Furnco Construction Corp. v. Waters, 438 U.S. 567 (1978)
- Hazelwood School District v. United States, 433 U.S. 299 (1977)
- DeMedina v. Reinhardt, 686 F.2d 997 (D.C. Cir. 1982)
- Valentino v. U.S. Postal Service, 674 F.2d 56 (D.C. Cir. 1982)
- Davis v. Califano, 613 F.2d 957 (D.C. Cir. 1979)
- Vuyanich v. Republic National Bank of Dallas, 505 F. Supp. 224 (N.D. Tex. 1980), vacated on other grounds, 723 F.2d 1195 (5th Cir. 1984)
- Vuyanich v. Republic National Bank of Dallas, 521 F. Supp. 656 (N.D. Tex. 1981), vacated on other grounds, 723 F.2d 1195 (5th Cir. 1984)
- Lehman v. Trout, 465 U.S. 1056 (1984)
- Trout v. Lehman, 702 F.2d 1094 (D.C. Cir. 1983), vacated on other grounds, 465 U.S. 1056 (1984)
- Pullman-Standard v. Swint, 456 U.S. 273 (1982)
- Albemarle Paper Co. v. Moody, 422 U.S. 405 (1975)
- Franks v. Bowman Transportation Co., 424 U.S. 747 (1976)
- Marconi Wireless Telegraph Co. v. United States, 320 U.S. 1 (1943)
- Laffey v. Northwest Airlines, Inc., 642 F.2d 578 (D.C. Cir. 1981)
- McKenzie v. Sawyer, 684 F.2d 62 (D.C. Cir. 1982)
- Thompson v. Boyle, 499 F. Supp. 1147 (D.D.C. 1979), aff'd, 678 F.2d 257 (D.C. Cir. 1982)
- Hamheed v. International Association of Ironworkers, 637 F.2d 506 (8th Cir. 1980)
- Valentino v. U.S. Postal Service, 674 F.2d 56 (D.C. Cir. 1982)

- O'Brien v. Sky Chiefs, Inc., 670 F.2d 864 (9th Cir. 1982)
- United States v. Ironworkers Local 86, 443 F.2d 544 (9th Cir. 1971)
- Cooper v. University of Texas, 482 F. Supp. 187 (N.D. Tex. 1979)

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