

Summary Judgment Review

Case Name: *Little v. Star Asia International, Inc.*

Nature of the Order: Magistrate's Report & Recommendation

Magistrate Judge: John K. Larkins, III

District Judge: William M. Ray, II

Claims & Outcomes:

1. **Claim:** Section 1981 Discrimination
 - a. **Outcome:** Recommend Summary Judgment Granted
2. **Claim:** Title VII Discrimination – Race
 - a. **Outcome:** Recommend Summary Judgment Granted
3. **Claim:** Title VII Discrimination – Gender
 - a. **Outcome:** Recommend Summary Judgment Granted

Whether R&R Followed: N/A

For Race/Gender Discrimination Cases:

Race of Plaintiff: African American

Gender of Plaintiff: Male

Summary

Defendant Star Asia International, Inc. (“Star Asia”) is a freight forwarding and global third-party logistics company. Star Asia hired Plaintiff Nelson Little (“Little”) as its HR Director on July 5, 2018. Little reported to Bruce A. Shecter, Defendant’s President who handles the day-to-day administration of the company, and Zina Sponiarova, currently Star Little’s Chief Operating Officer. Peter N. Starosta is Star Asia’s Chief Executive Officer.

The core incidents that make up Little’s claim are as follows: First, on August 2018, Shecter allegedly told Little that Starosta “would have preferred a white woman in this position, but I’m overriding that because I like you.” Next, in August or September 2018, Shecter temporarily took recruiting responsibility away from Little and gave it to an executive assistant who was a white woman. According to Little, Shecter said he took this action because Little “didn’t know what the culture of the company was.” Finally, in October 2018, Starosta told Little something along the lines of “I would have never hired you, but seeing that Bruce hired you, I have to deal with it now.”

Both Shechter and Sponiarova found that Little had work performance issues. Little was rated as “Needs Improvement” in various areas on his annual performance review for 2018-2019.

Neither Sponiarova nor Shecter believed that Little improved his performance following this review. The final straw came on December 4, 2019, when Little sent an email about benefits enrollment to all of Defendant's employees, which included information that Defendant treated as confidential and had never disclosed to its entire workforce. The next day, Shecter and Starosta decided to fire Little. Shecter called Little to terminate his employment, and he noted that Little was not a "cultural fit."

Star Asia moved for summary judgment on all of Little's claims.

The Court first found that Shecter and Starosta's statements were not evidence of direct discrimination. In order to believe that the "culture" remarks relate to gender or race, one must make an inference and "direct evidence" is evidence that, if believed, proves discrimination without inference. Additionally, Starosta's remark about preferring to hire a white woman was too far removed from Little's termination to be direct evidence.

Turning to the *McDonnell Douglas* framework, the Court found that Little could not establish a prima facie case because he could not meet the fourth prong – that he was treated less favorably than a similarly situated individual outside his protected class. While his two predecessors in the position were white women, the Court found that neither were "similarly situated" because they did not engage in the same "basic conduct or misconduct" as Little, nor did they have a similar employment history. Additionally, the Court found that the executive assistant who took over recruiting responsibilities was not a proper comparator, as she held a different title and there was no evidence showing similarities between her and Little's disciplinary or employment history.

The Court then found that, even if Plaintiff could establish a prima facie case, Star Asia proffered a legitimate, nondiscriminatory reason for terminating Little: his job performance. Finally, the Court found that Little could not show that Star Asia's reason for terminating his employment was pretext for discrimination. Little argued that Starosta was biased against him because of his race and gender and that this bias infected Shechter's decision to fire Little. The Court considered Starosta's August 2018 statement about wanting a white woman in the position as "the clearest indication of discriminatory intent," but found that it was too far removed from Little's termination in December 2019 to be sufficiently probative of pretext.

Next, the Court held that Little did not provide sufficient evidence to prevail under a convincing mosaic theory. Using the same reasoning as above, the Court found that the timing and content of Starosta's statement did not raise a reasonable inference of discriminatory intent, Little failed to rebut Starosta's legitimate, nondiscriminatory justification, and there was no evidence that Star Asia treated similarly situated employees better than Little. Lastly, the Court rejected Little's mixed motive theory of discrimination. It found that the evidence was "far too attenuated for a jury to reasonably conclude that gender or racial bias played a role in the decision to terminate Plaintiff's employment."

Judge Larkins, therefore, recommended GRANTING of summary judgment on all claims.