

Summary Judgment Review

Case Name: *Roberson v. Richardson*

Nature of the Order: Order Adopting the Report & Recommendation and Granting Summary Judgment

Magistrate Judge: Walter E. Johnson

District Judge: Eleanor L. Ross

Claims & Outcomes:

1. **Claim:** Title VII Race Discrimination
 - a. **Outcome:** Summary Judgment Granted
2. **Claim:** Title VII Sex Discrimination
 - a. **Outcome:** Summary Judgment Granted (b/c Claim Abandoned)

Whether R&R Followed: Yes

For Race/Gender Discrimination Cases:

Race of Plaintiff: African-American

Gender of Plaintiff: Female

Summary

Defendant W. Gene Richardson (“Richardson”), Chief Magistrate Judge of Floyd County, Georgia, made the decision – in consultation with HR and the Floyd County Sheriff – to abolish the position of Floyd County Constable. He asserted that he believed it would be more efficient and cost-effective for the constable duties to be handled by the Floyd County Sheriff. The three constables whose positions were eliminated were a white woman, a white man, and Plaintiff Thometrice Roberson (“Roberson”), an African-American woman. Roberson brought suit, alleging race and sex discrimination.

Richardson moved for summary judgment on all of Roberson’s claims. Magistrate Judge Johnson recommended granting summary judgment on all claims. None of the parties objected to this recommendation, and District Judge Ross therefore adopted the recommendation as the opinion of the Court. Thus, the reasoning that follows is from Judge Johnson’s Report & Recommendation.

(Roberson claimed that others actions by Richardson – besides the termination – were also discriminatory. However, Judge Johnson held that all non-termination claims were untimely because the events precipitating those claims all occurred more than 180 days before Roberson filed her EEOC charge. Judge Johnson also noted that the termination took place after Roberson

filed the EEOC charge, and she never filed a charge about the termination. However, since Richardson did not seek summary judgment on the issue of administrative exhaustion, Judge Johnson proceeded to the merits.)

In her response brief, Roberson only made arguments regarding her race discrimination claim. Therefore, Judge Johnson deemed the sex discrimination claim abandoned.

Roberson asserted she could prove she was fired because of her race using direct evidence, the *McDonnell Douglas* framework, and the convincing mosaic framework. As to direct evidence, Roberson provided evidence that Richardson praised segregationists and used racial slurs. However, none of these comments concerned Roberson or her termination. Therefore, Judge Johnson concluded that they did not constitute direct evidence that Richardson terminated Roberson because of her race.

Because the comments did not relate to Roberson or her employment, Judge Johnson also did not consider them as circumstantial evidence of discrimination. [**Note:** This portion of Judge Johnson’s decision appears to be in error. *See Scott v. Suncoast Beverage Sales, Ltd.*, 295 F.3d 1223, 1229 (11th Cir. 2002) (“a comment unrelated to a termination decision may *contribute* to a circumstantial case for pretext”) (emphasis in original); *Damon v. Fleming Supermarkets of Florida, Inc.*, 196 F.3d 1354, 1363 (1999) (“remarks . . . not directly about plaintiff, could be taken by a jury as an accurate reflection of the existing managerial attitude toward older workers.”).]

Judge Johnson also found that Roberson could not prove her case using the *McDonnell Douglas* framework because she could not show she was treated less favorably than similarly-situated individuals outside her protected class. This is because the white constables were also terminated.

Finally, Judge Johnson held that Roberson presented no other probative evidence of discriminatory intent and, therefore, could not prove discrimination using a convincing mosaic.

Judge Ross, following the recommendation of Magistrate Judge Johnson, GRANTED summary judgment on all claims.