

Summary Judgment Review

Case Name: *Naomi Pittman v. JCG Foods of Georgia LLC, d/b/a Koch Foods of Pine Mountain Valley*

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

Magistrate Judge: Russel G. Vineyard

District Judge: Timothy C. Batten, Sr.

Claims & Outcomes:

1. **Claim:** Title VII – Gender Discrimination
 - a. **Outcome:** Summary Judgment Granted

Whether R&R Followed: Yes

For Race/Gender Discrimination Cases:

Race of Plaintiff: N/A

Gender of Plaintiff: Female

Summary

Plaintiff Naomi Pittman began working for Defendant Koch Foods on November 28, 2016, as a production worker. Koch Foods is organized by a Union, with which it would enter into a Collective Bargaining Agreement (“CBA”) every few years. Under this CBA, Human Resources posted job bids for jobs classified in the bargaining unit higher than the production worker. Ms. Pittman bid on and was awarded a job as a Quality Assurance Technician in January 2017, and in August 2017, she bid on and was awarded a position as Parts Room Clerk. Ms. Pittman reported to Gary Deloach, the Maintenance Superintendent. She testified that he made comments indicating that female maintenance technicians were not approved of and Ms. Pittman believed that these comments were intended to deter her from trying to gain such a position.

On January 31, 2018, Ms. Pittman was issued a Corrective Action Report and a counseling statement due to unsatisfactory job performance. Pursuant to the old CBA, she was unable to interview for bid position for six months, ending on July 31, 2018. On July 30, 2018, Ms. Pittman signed the bid sheet for a position as a Maintenance Supervisor with Marlon Spires. She was granted an interview, and Spires gave her a six out of ten qualifications rating. Spires went out on leave, so Deloach and the Maintenance Manager, David Cruz, interviewed another candidate, who they rated eight out of ten. The other candidate was selected for the position based on the conclusion that he was more qualified and senior.

On September 5, 2018, Ms. Pittman filed a union grievance regarding the Maintenance Department bid process. On September 24, 2018, Ms. Pittman received another Corrective Action Report with a serious counseling statement for failing to put several items in the Parts Room. Believing this report was in retaliation for her union grievance, Ms. Pittman then filed another formal union grievance, and she called Koch Foods' hotline to make a report of discrimination based on the failure to hire any women in the Maintenance Department.

Ms. Pittman signed the bid sheet for another position in the Maintenance Department on October 2, 2018. Spires went out on leave before being able to conduct interviews, so the position was reposted on November 9, 2018. Ms. Pittman signed the bid sheet for the reposted position. On November 13, 2018, a co-worker filed a union grievance on Ms. Pittman's behalf because Ms. Pittman had been denied several maintenance positions. That same day, Ms. Pittman was selected for the position she applied to on November 9, 2018. The November 13, 2018, grievance was recorded as being denied because Ms. Pittman had been interviewed for and awarded a job in maintenance. Ms. Pittman repeatedly requested a Personnel Action Form ("PAF") for this new position from Human Resources, but one was never given to her. On November 21, 2018, Ms. Pittman filed a union grievance because the 30-day timeframe for moving her into the new position had lapsed. She resigned on November 29, 2018. She later filed suit, alleging sex discrimination.

Defendant moved for Summary Judgment. Magistrate Judge Russell G. Vineyard recommended granting summary judgment Ms. Pittman's claim of sex discrimination. None of the parties objected to this recommendation, and District Judge Timothy C. Batten, Sr. therefore adopted the recommendation as the opinion of the Court. Thus, the reasoning that follows is from Judge Vineyard's Report & Recommendation.

Judge Vineyard assumed that Ms. Pittman established a *prima facie* case of gender discrimination and skipped to the pretext analysis. Judge Vineyard first considered the July 30, 2018, Maintenance Technician bid. The candidate who was ultimately chosen for the position received a higher qualifications rating and had greater seniority. Ms. Pittman argued that she was more qualified, but Judge Vineyard explained that the pretext inquiry centers on the employer's beliefs, and an employee cannot prove pretext by simply arguing that she was better qualified than the individual who received the position. There was, therefore, insufficient evidence to prove pretext. Turning to the October 2, 2018, bid, Judge Vineyard found that Ms. Pittman did not present any evidence that the failure to follow the CBA by filling the position within 30 days was due to gender discrimination. In particular, Ms. Pittman did not refute Koch Foods' explanation that it failed to timely fill the position because Spires went out on leave.

Lastly, Ms. Pittman failed to prove that the delay in obtaining a PAF following her selection for the November 9, 2018 bid was pretextual. Ms. Pittman did not rebut Koch Foods' legitimate, nondiscriminatory explanations that the delay was because the Parts Room – where Ms. Pittman was working at the time – was understaffed and needed her to work until it found a replacement. Further, Ms. Pittman resigned before the 30-day period expired.

In sum, Judge Vineyard found that Ms. Pittman failed to demonstrate pretext, failed to provide any probative evidence of gender-based biases to support her claim, and failed to show any evidence of discriminatory animus by her supervisors.

Judge Vineyard, therefore, recommended granting Defendant's Motion for Summary Judgment.

District Judge Batten, following the recommendation of Magistrate Judge Vineyard, GRANTED summary judgment on Ms. Pittman's gender discrimination claim.