

Summary Judgment Review

Case Name: Gladden v. The Proctor & Gamble Distributing, LLC

Nature of the Order: Magistrate Report and Recommendation

Magistrate Judge: Justin S. Anand

District Judge: Charles A. Pannell

Claims & Outcomes:

1. Claim: Title VII, sex discrimination
 - **Outcome:** Recommend Summary Judgment be Granted
2. Claim: Title VII, retaliation
 - **Outcome:** Recommend Summary Judgment be Granted

For Gender Discrimination Cases:

Gender of Plaintiff: Female

Long Summary:

Plaintiff worked for Defendant for 18 years. Between 2015 and 2018, Plaintiff worked with multiple P&G vendors, one of which was a company called Promoveo Health (“Promoveo”). Promoveo had and has a contract with P&G. Plaintiff filed suit for Title VII for sex discrimination and retaliation. Plaintiff and Defendant both moved for summary judgment. The magistrate judge recommended that the Defendant’s motion be granted and Plaintiff’s motion be denied.

With respect to Defendant’s motion, the court first stated that Plaintiff did not present any direct evidence of discrimination. The court stated that Plaintiff did not allege, nor did she cite to any record evidence, that anyone at P&G ever made any comment to her that reflected a discriminatory animus against her because she is a woman, nor did she allege that anyone at P&G said anything to her that could be construed as direct evidence that P&G terminated her employment because she is a woman. Thus, the Court found that Plaintiff did not present direct evidence of sex discrimination and her case rests solely on circumstantial evidence. The court then analyzed Plaintiff’s evidence of discrimination through the McDonnell Douglas burden shifting framework. The court found that Plaintiff presented a prima facie case. While the court found that the Plaintiff did not point to any comparators that engaged in conduct that was remotely similar to her conduct, she was able to satisfy the fourth element of a prima facie case because she could show a dispute as to material fact as to whether someone outside her protected class was her “replacement.”

The court went on to find that Defendant stated a legitimate, non-discriminatory reason for termination, because P&G had lost trust and confidence in Plaintiff’s ability to perform her job based on her conduct, including: (a) Plaintiff violated P&G’s co-employment avoidance policies and training when she involved herself in Promoveo’s discharge and compensation decisions; (b)

Plaintiff failed to report her alleged contract compliance concerns to Purchases until she was explicitly told to do so; (c) Plaintiff retaliated against Promoveo for its decision to terminate Hayes, her friend and neighbor; and (d) Plaintiff coordinated or conspired with a formerly terminated employee to harass and intimidate P&G employees.

The court then concluded that Plaintiff failed to establish that Defendant's proffered reason for termination was pretextual because the undisputed evidence indicates that Defendant had a reasonable basis for concluding that she retaliated against Promoveo and that she conspired with the formerly terminated employee.

Additionally, the court found that, while Plaintiff mentioned "convincing mosaic" in her brief, she did not cite to sufficient record evidence to rise to the level necessary for a "convincing mosaic" of circumstantial evidence of discrimination.

With respect to Plaintiff's retaliation claim, the court found that, despite Plaintiff's contention, she did not present direct evidence of discrimination because she cited to no record evidence that anyone at P&G ever said anything to her that would rise to the level of direct evidence of discrimination. The court then stated that she could not prove that she engaged in protected conduct based on a reasonable, good-faith belief that P&G had taken any action against her that could be viewed as discriminatory. The court stated that, even if Plaintiff could show she engaged in protected activity and while there was close temporal proximity between the termination and that activity, there were intervening factors, specifically Plaintiff's conduct and P&G's investigation into it, that had already begun and broke the causal link of temporal proximity alone. Additionally, even if Plaintiff had presented a prima facie case of retaliation, as discussed above, P&G has presented significant evidence that it had a legitimate reason to terminate Plaintiff's employment that was not related to her gender or any intent to retaliate against her, and Plaintiff has failed to present evidence establishing that P&G's reasons were false or were not the true reasons for its decision.

Accordingly, the magistrate judge recommended granting Defendant's motion for summary judgment. For Plaintiff's motion for summary judgment, the court referenced much of its analysis on Defendant's motion for summary judgment and recommended it be denied.