

Case Name: *Enrique Velez v. Oriental Weavers U.S.A., Inc.*

Nature of the Order: Order on Defendant's Motion for Summary Judgment

Magistrate Judge: Walter E. Johnson

District Judge: Harold L. Murphy

Claims & Outcomes:

1. **Claim:** Retaliation – Title VII
 - a. **Outcome:** Summary Judgment Denied
2. **Claim:** Retaliation – Section 1981
 - a. **Outcome:** Summary Judgment Denied

Whether R&R Followed: Yes

For Race/Gender Discrimination Cases:

Race/Ethnicity of Plaintiff: Hispanic

Gender of Plaintiff: N/A

Long Summary

Plaintiff, Enrique Velez, was hired by Defendant, Oriental Weavers (“OW”) as a Finishing Supervisor in March 2017. OW is involved in the production of rugs. Mr. Velez’s immediate supervisor was Finishing Manager Hany Arafat. Yassar Shaban was the Plant Manager and Kim Collette was the Human Resources Director.

When Mr. Velez began working for OW, he observed and Hispanic employees complained to him that Mr. Arafat treated them worse than non-Hispanic employees in the way that he spoke to them and assigned them work. Hispanic employees also complained to Mr. Velez about discriminatory issues with their pay. Mr. Velez was responsible for signing off on employee raises in his department, so he witnessed pay disparities between Hispanic and non-Hispanic employees first-hand.

Mr. Velez advised Mr. Arafat and Ms. Collette about the complaints of discrimination he was hearing and observing. Shortly thereafter, in October 2017, Mr. Velez was demoted to Inventory Control. Mr. Velez was promoted back to Finishing Supervisor in April 2018. Shortly after being reinstated to this position, Mr. Velez again complained to Ms. Collette about Mr. Arafat’s discriminatory behaviors and the pay issues. On June 6, 2018, Mr. Velez complained to Mr. Arafat again about the pay issues. Later that day, Mr. Velez met with Mr. Shaban, Mr. Arafat, and Ms. Collette and repeated his complaints of discrimination.

Following this conversation, Mr. Velez began to feel ill. He advised Ms. Collette that he would be taking the next two days off, and she replied that this was fine. When Mr. Velez returned to work, Ms. Collette advised him that he was being terminated for poor job performance.

However, Mr. Arafat and Ms. Collette both testified that Mr. Velez was terminated for being out of work for two days.

The Court adopted the Magistrate Judge's Final Report and Recommendation in full. The Magistrate Judge found that Mr. Velez could establish a prima facie case of retaliation. Mr. Velez engaged in protected activity when he complained multiple times about discrimination against Hispanic employees by Mr. Arafat. As for the causation element, Mr. Velez was fired either the day of his complaint during the June 6 meeting, or five days afterward (the termination paperwork represents two different dates as the termination date). Further, Plaintiff was able to establish pretext. Regarding OW's assertion that Mr. Velez was fired for job abandonment, Mr. Velez showed that he asked for and received permission from Ms. Collette to take time off. As for the OW's job performance argument, Mr. Velez established that he was not the only employee who struggled to meet the production quota. OW told Mr. Velez that there was a daily rug production quota of 8,500 square meters; however, Mr. Velez was able to show that this quota was rarely met throughout his employment with OW. Additionally, the Magistrate Judge noted that OW's two reasons for termination are fundamentally inconsistent, which establishes that the reasons were pretextual.

The Court therefore Adopted the Magistrate Judge's Final Report and Recommendation and Denied Defendant's Motion for Summary Judgment.