

Summary Judgment Review

Case Name: *Virginia Marie Nye v. Alloy Wheel Repair Specialists, LLC*

Nature of the Order: Order Approving and Adopting the Magistrate Judge's Final Report and Recommendation, Granting Defendants Motion for Summary Judgment.

Magistrate Judge: John K. Larkins III

District Judge: J. P. Boulee

Claims & Outcomes:

1. **Claim:** Title VII – Hostile Work Environment (Gender)
 - a. **Outcome:** Defendant's Motion for Summary Judgment Granted
2. **Claim:** Title VII – Retaliation
 - a. **Outcome:** Defendant's Motion for Summary Judgment Granted

Whether R&R Followed: Yes

For Race/Gender Discrimination Cases:

Race of Plaintiff: N/A

Gender of Plaintiff: Female

Long Summary:

Plaintiff Virginia Marie Nye was hired by Defendant Alloy Wheel Repair Specialists, LLC ("AWRS") in November 2010 as the Director of Business Development. AWRS was acquired by Soundcore Capital in November 2015, and Rob Wheeley was installed as CEO. In the summer of 2016, Dawn Clark, the national sales account manager, informed Nye that she was having an affair with Wheeley. In April 2017, responsibility for national accounts sales was taken from Plaintiff and given to Duane Code, apparently at Wheeley's insistence.

Nye alleged that she had problems with her male colleagues and management, albeit not of a sexual nature. For example, two male colleagues spoke unprofessionally in front of Nye and other female employees. Nye also complained about her relationship with Wheeley. She alleged that she sensed a general hostility from Wheeley and pointed out a few examples of him being unprofessional. Again, Nye could not recall anything that was sexual in nature. Nye lastly raised issues with what she described as the "boys club mentality" at AWRS under Wheeley. She claimed that she and most of the women at the company felt left out.

Nye also asserted that she suffered retaliation because she reported that Wheeley and Clark had been having an affair in January 2017. She alleged that she received a write up from Wheeley that month, and during the final six months of her employment following January 2017, Wheeley

ignored her and stayed away from her as much as he possibly could. Nye claimed that she was left out of the “inner circle” and could not engage with anyone to get her job done. Nye filed her EEOC charge in early February 2018.

Nye’s two claims were for gender-based hostile work environment harassment and retaliation. Beginning with the retaliation claim, AWRS argued that the claim was untimely because the relevant allegations came more than 180 days before plaintiff filed her EEOC charge. Nye alleged that Wheely effectively demoted her by abruptly taking from her the vast majority of the Sales role and job title after she reported that he was having an affair with Clark. According to the Court, Nye’s response to AWRS’s Motion for Summary Judgment on this claim was entirely unresponsive to AWRS’s argument. The Court found that Summary Judgment was proper on this basis alone, but even if Nye had not abandoned her retaliation claim, the claim would still fail for several reasons. First, AWRS produced evidence that Nye’s loss of title and sales business, as well as the incentive award, came well before the August 2017 cutoff for timely inclusion in her charge of discrimination. Additionally, Nye put forth no evidence that the decision maker had knowledge of her protected conduct.

Moving on to the hostile work environment claim, AWRS also claimed that Nye’s hostile claims were untimely. Nye claimed that if any act contributing to her claim occurred within 180 days before she filed her EEOC charge, then every act included in the claim was saved. The Court explained that the conduct Nye complained of was not all part of a single, gender-based hostile working environment claim. Rather, Nye pointed to discrete conduct in an attempt to save her otherwise untimely claim. The discrete act must be sufficiently related to the hostile work environment claim to be considered part of the same claim, and that was not the case here. The key was that discrete acts alone cannot form the basis of a hostile work environment claim.

Therefore, the Court GRANTED Defendant’s Motion for Summary Judgment.