

Summary Judgment Review

Case Name: *Kelley v. Catherine Howden and GEMA/Homeland Security*

Nature of the Order: Order

Magistrate Judge: Justin S. Anand

District Judge: William M. Ray II

Claims & Outcomes:

- a. **Claim:** Race Discrimination (Section 1981)
 - a. **Outcome:** Recommend Summary Judgment Granted
- b. **Claim:** Race Discrimination (Equal Protection Clause of 14th Amendment – Section 1983)
 - a. **Outcome:** Recommend Summary Judgment Granted
- c. **Claim:** Race Discrimination (Title VII)
 - a. **Outcome:** Recommend Summary Judgment Granted
- d. **Claim:** Retaliation (Section 1981)
 - a. **Outcome:** Recommend Summary Judgment Granted
- e. **Claim:** Retaliation (Title VII)
 - a. **Outcome:** Recommend Summary Judgment Granted

Whether R&R Followed: Adopted in part, declined in part

For Race/Gender Discrimination Cases:

Race of Plaintiff: African-American

Gender of Plaintiff: NA

Summary

Plaintiff Christen Robinson Kelley (“Kelley” or “Plaintiff”) was hired by Defendant Georgia Emergency Management and Homeland Security Agency (“GEMA”) in October 2016 as a Communications Specialist I. Defendant Catherine Howden (“Howden”) hired Kelley and was her supervisor for most of the events of this case. (GEMA and Howden are collectively referred to as “Defendants”).

Kelley is African-American. Her starting salary was less than that offered to two non-African-American employees hired around the same time as her or shortly thereafter: Uyen Le (“Le”) and Julia Regeski (“Regeski”). They were also promoted more swiftly than her. In November 2017, Howden met with Kelley and said Kelley needed to improve her work performance and carry a bigger workload. In the same meeting, Kelley complained that Howden was treating her differently from other members of the team by excluding her from certain meetings and emails. In January 2018, Kelley requested a raise and promotion to be “equal to her coworkers.” Howden denied the promotion/raise and instead placed Kelley on a Performance

Improvement Plan (“PIP”). Kelley filed an EEOC Charge alleging race discrimination and retaliation. She also complained of the same things in an internal grievance, after which she was transferred to a different supervisor. The new supervisor found Kelley’s performance somewhat improved, but that she still had a lot of room for improvement. Ultimately, however, about 2 months later, the Deputy Director of GEMA concluded Kelley had made enough improvement and removed the PIP. Just over a month later, Kelley was granted the promotion.

Kelley ultimately filed suit against Defendants. She alleged Howden committed race discrimination against her in violation of 42 U.S.C. § 1981 and the Equal Protection Clause of the 14th Amendment. She similarly charged GEMA with race discrimination in violation of Title VII. She also claimed both Defendants committed retaliation in violation of Section 1981 (Howden) and Title VII (GEMA). Defendants moved for summary judgment on all claims, and the Magistrate Judge recommended that the motion for summary judgment be granted.

Plaintiff filed several objections. First, Judge Ray determined Judge Anand applied the correct standard in determining whether Howden and GEMA’s failure to follow rules was direct evidence of discrimination by considering whether this failure reflects “a discriminatory or retaliatory attitude correlating to the discrimination or retaliation complained of by the employee.” Then, in response to Plaintiff’s objection to the Magistrate Judge’s finding in a footnote that spoliation did not occur, Judge Ray explained that the Magistrate Judge was simply stating that Plaintiff had passed the deadline to assert the spoliation argument. Judge Ray also overruled Plaintiff’s objection to the Magistrate Judge’s finding that there were no similarly situated comparators, because the Magistrate Judge was not limited to just three relevant factors in analyzing whether the comparators are similarly situated in all material respects. Finally, Plaintiff objected to the fact that the Magistrate Judge did not explain why summary judgment should be granted to Defendants on Plaintiff’s mixed-motive claim, but after addressing it within the order, Judge Ray held that Plaintiff had not met her burden.

The Court, therefore, adopted the R&R and granted Defendant’s Motion for Summary Judgment.