

WERE AT&T SUPERVISOR'S "CRUDE" REMARKS SEXUAL HARASSMENT?



An AT&T retail store manager in Clarkston, MI, claims that he was subjected to sexual harassment and a hostile work environment from his supervisor. He filed suit against AT&T, citing a violation of Michigan's Elliott-Larsen Civil Rights Act. The man was hired in May 2008. The area sales manager, who was his supervisor, visited the store roughly ten times a month. From June to March of the following year, the supervisor made numerous remarks that the employee found offensive – calling him by female names; suggesting that a Yorkshire terrier was the “perfect dog” for him; saying that his thinness gave him the appearance of a girl; and stating that the human rights sticker on the plaintiff's car looked like the Swedish flag. The supervisor also called the man a necrophiliac – but he later admitted in court that he'd meant to say “narcolepsy,” a condition from which the plaintiff evidently suffers. AT&T has internal procedures for handling harassment, but the man forwent this option in favor of an attorney. In March, the attorney sent a letter to the supervisor's higher up, demanding that the behavior cease immediately. The company's Equal Employment Opportunity department investigated. The plaintiff was informed in April that the supervisor would be transferred and would no longer oversee the Clarkston store. The supervisor was also issued a final written warning and was required to attend classes on maintaining a professional work environment. Despite being assigned new supervision, the man feared that he might encounter his old supervisor and submitted his resignation. His subsequent lawsuit asserted that he was sexually harassed, creating a hostile work environment. The case, removed to federal court, required the plaintiff to present evidence of the harassment. This included showing that he was discriminated because of his sex, which he was unable to do – even acknowledging that the supervisor had been “rude, aggressive and general



unapproachable” to all employees. Likewise, the man could not prove that the conduct was sexual in nature. He noted the possibility that the supervisor was attracted to him, but admitted that his superior neither indicated a sexual interest nor made a sexual advance. Even if the comments seemed to be implying that the man was homosexual, the references to his physique or attire do not “inherently pertain to sex,” which is required under the Act that was allegedly violated. In the same regard, judges did not see a genuine circumstance of a hostile work environment because the comments were not sexual. The necrophilia remark was an exception, but a singular occurrence cannot support such a claim. The man's attempt to hold AT&T responsible – to validate a constructive discharge claim – also collapsed. AT&T reacted appropriately and clearly intended to “prevent future harassment” on behalf of the plaintiff. Judges conceded that the supervisor's conduct was “crude” and “despicable,” but it cannot be considered sexual harassment if the comments aren't sexual in nature. Noting a lack of evidence, the district court granted summary judgment in favor of AT&T. The appeals court concurred with the dismissal of all charges, and the decision was affirmed.