

HOSPITAL WORKER SUES FOR SUPERVISORS' RACIAL JOKES AND COMMENTS



A woman of Latina descent working at Valley View Hospital in Colorado alleged that a series of racially-motivated jokes and comments resulted in a hostile work environment. Her legal action against the company led to a grant of summary judgment against her on all claims, but appellate judges had a strikingly different opinion than the district court. The woman worked in the food services department at the hospital. During her time of employment, she claims that she was subjected to a barrage of derogatory comments and racial jokes from two of her supervisors. In court, she specified numerous jokes that were told on multiple occasions, and her complaints of the offensiveness were allegedly ignored. Other alleged incidents included a non-Latina co-worker's remark about putting ice in cups because she "[wasn't] in Mexico anymore," a supervisor – referencing her son's prom picture – stating that only a Latino would wear tennis shoes to a prom, and a supervisor complaining of working on Christmas because his hair wasn't dark, clarifying, when asked, that he was referring to Latinos. The supervisors, including another one to whom the woman complained, did not believe the jokes or comments were racist. When one supervisor angrily criticized the state of the cafeteria, the woman suggested that the problem was that she might "not [be] white enough." She was suspended for the remark, at which time she reiterated her complaint of the co-worker's similarly racist comment. She requested a transfer for fear of the supervisor – who'd reacted physically to her comment – but she was denied and instead offered FMLA (Family and Medical Leave Act) leave, which she accepted. A second transfer request was denied, and she was fired when not returning from her leave. She sued for racial and national origin discrimination based on a hostile work environment and a constructive discharge – alleging that she had no choice but to quit. She added retaliation in an amended claim. The district court ruled against her, noting that, while her supervisors were "boorish, infantile and unprofessional," a "handful" of inconsiderate jokes did not amount to a hostile work environment – which, in turn, would negate a constructive discharge claim. The retaliation claim was dismissed for failure to state a



claim, specifically that her arguments in support of it were no different than the complaint prior to amendment. The appeals court, however, disagreed. It believed that the jokes were severe enough because they were repeatedly told by the supervisors. A supervisor also implied that a murderer in the news was part of her family and that her family members, on one occasion, did not pay for their lunch. Her complaints, prompt and recurrent, were rejected. The hospital claimed that the jokes weren't directed at the woman, but appellate judges noted that whether or not that was the case is inconsequential – it still would be considered a hostile work environment by law. Proof of this would support a showing of constructive discharge as well. The retaliation claim's dismissal was affirmed by the appeals court, but the grant of summary judgment with regard to the hostile work environment and the constructive discharge claims was reversed.