

DID THE CENSUS BUREAU ALLOW FOR A HOSTILE WORK ENVIRONMENT?



A former employee working for the U.S. Census Bureau filed suit against her employers, claiming retaliation for a prior complaint with the EEOC (Equal Employment Opportunity Commission). It was her evidence – or lack thereof – that helped the courts make a decision. The woman had worked at a Jeffersonville, IN, branch for several years when, in 2002, she filed an administrative charge of sexual discrimination and retaliation. A finding that three male supervisors had created a hostile work environment for female employees was upheld by the EEOC, and the woman was awarded \$50,000 in compensatory damages. She had been released from work in 2004 while her case was under review. In 2006, she returned to work for a 14-week position in the telephone unit of the Survey Processing Branch. Before her return, she complained to the chief of the Employee and Labor Relations Section about an employee who would be her co-worker and with whom she'd had a physical altercation the prior year at a union meeting. Within two weeks of returning, she met with the director of the National Processing Center – the Bureau's primary center – to complain about her work environment: her supervisor allegedly told co-workers not to speak with her during the day, and the supervisor and others reportedly stood near her desk to monitor her phone calls. HR reps investigated but found no support of a hostile work environment; contrarily they determined that the woman herself was “disruptive, rude, disrespectful and disturbing.” Meanwhile, the woman was being disciplined for improper conduct, including personal phone calls exceeding 20 minutes, using offensive and racist language during such a call, leaving her work area without signing out or asking permission, and returning late from breaks. The branch chief ultimately placed her on paid non-duty status. The woman was later issued a second record of infraction because of her response to the first record of



infraction – refusing to meet with and hanging up on the supervisor, and leaving the unit. She filed a complaint with the EEOC but failed to respond to discovery requests. The EEOC remanded the case to the Department of Commerce, which made a decision without a hearing. The woman later filed a civil complaint, claiming retaliation for her EEOC activity. She claimed that the Census Bureau could have found work for her well before 2006, that she was subjected to harassment and a hostile work environment, and that a 10-day suspension (the result of her second infraction and implemented while she was working another position) was a pretext for retaliation. The Bureau moved for summary judgment. The woman's response to the motion neither offered any proof for her argument nor disputed any of the Bureau's evidence, and the district court granted summary judgment in favor of the Bureau. Appellate judges disagreed with the district court's reason for its ruling – that the plaintiff had failed “to advance any facts or evidence” to support her allegations. They believed that what should matter is whether or not the woman could offer “genuine dispute” of the defendants' material facts. So while the appeals court disagreed with the reason, it conceded that the decision was appropriate, as the “vague allegations” against the Bureau did not effectively refute its arguments. The motion in favor of the Bureau was affirmed.