

Kern v. Dynalelectron Corp. 577 F.Supp.1196 (N.D.Tex1983)

Wade Kern, a white, Baptist male, applied for a job as a helicopter pilot with Dynalelectron. Under a contract with the Saudi Arabian government, Dynalelectron was recruiting pilots to fly patrol missions along the pilgrimage route to Mecca. Because such flights entered the holy area around Mecca, and since Saudi law specifies beheading as the penalty for non-Muslims entering this area, a condition of employment was that the pilots be Muslim.

Kern understood and accepted this condition and was hired. However, three months after formally converting from Baptist to Muslim, he changed his mind. Dynalelectron offered him another position which would become available in four months. Kern declined that position and demanded that he be given another position immediately. The company refused. He brought suit, alleging religious discrimination in employment.

Questions

1. Is Kern ("Plaintiff") charging Disparate Impact or Disparate Treatment?
2. What is the legal basis/provision for the discrimination that Kern is alleging?
3. What would be his prima facie case?
4. Based on your answer to #2, what defense would Dynalelectron ("Defendant") use?
5. What information would Kern's attorneys ask for? Dynalelectron's attorneys?

EEOC v. Carolina Freight Carriers Corp, 87 Civ. 6322 (SD Fla. 1989)

Plaintiff, a Black male, filed suit alleging that he was not hired as a truck driver because he was a member of a protected group. Defendant had a company policy of not hiring applicants who had been convicted of a felony. Plaintiff had served a prison sentence for larceny (and had admitted as much on his employment application with Defendant).

The Defendant presented evidence that they had incurred significant annual losses which management had determined were largely attributable to employee theft. The truck drivers worked without significant supervision and were responsible for trucks and cargoes worth a great deal of money.

Questions

1. Is this case one of Disparate Impact or Disparate Treatment?
 2. What is the legal basis/provision for the alleged discrimination?
 3. What would be his prima facie case?
 4. Based on your answer to #2, what defense would Carolina Freight ("Defendant") use?
 5. What information would the Plaintiff's attorneys ask for? Defendant's attorneys?
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Baker v. Emery Worldwide, 789 F. Supp. 667 (WD PA. 1991)

Baker, a female, was hired in 1986 as a courier by a predecessor of Emery to sort, load, and deliver overnight packages on a designated route. In March 1988 the company was purchased by Defendant. Along with 48 men and 1 other woman, Plaintiff applied for a position with Emery. There were 28 positions open. Each applicant was interviewed and scored on a scale of "1" to "10." The applicants were evaluated on flexibility, communication skills, energy level, work experience, and sharpness. However, testimony from Plaintiff's manager indicated that there was some uncertainty regarding how the five categories were weighed by the interviewers. With a total point score of "7" the Plaintiff was deemed unqualified and not among those hired, despite the fact that four of those hired (all males) had scores equal to or less than Plaintiff's. The other woman, who had a special license that permitted her to operate a tractor trailer, was also hired.

Questions

1. Is this case one of Disparate Impact or Disparate Treatment?
 2. What is the legal basis/provision for the alleged discrimination?
 3. What would be her prima facie case?
 4. Based on your answer to #2, what defense would Emery Worldwide ("Defendant") use?
 5. What information would the Plaintiff's attorneys ask for? Defendant's attorneys?
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EEOC v. Insurance Company of North America, 49. F.3d 1418, 1420-21 (9th Cir. 1994)

Plaintiff filed a complaint with the EEOC that the Defendant had rejected his application for a Loss Control Inspector on the basis of age discrimination. The employer, Insurance Company of N.A., had advertised for a Loss Control Inspector in a local paper. The ad read, “the ideal candidate will have a college degree and two years experience in loss control...” among other information. The company subsequently hired a 28-year-old college grad with no loss control experience. The Plaintiff had 30 years of loss control experience and was over the age of 40. The company claimed that an employee with that much loss control experience would have been overqualified for the position and, in fact, would have delved too deeply into the insured’s affairs and claims.

Questions

1. Is this case one of Disparate Impact or Disparate Treatment?
 2. What is the legal basis/provision for the alleged discrimination?
 3. What would be his prima facie case?
 4. Based on your answer to #2, what defense would INA (“Defendant”) use?
 5. What information would the Plaintiff’s attorneys ask for? Defendant’s attorneys?
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Fisher v. Vassar College, 70 F.3d 1420 (2d Cir. 1996) 852 F. Supp. at 1219.

Cynthia Fisher, age 53, charged that Vassar College discriminated on the basis of marital status when they denied her request for tenure and promotion to Associate Professor of Biology in 1985. Fisher presented numbers purporting to demonstrate that no married woman on the Vassar faculty had been granted tenure in the "hard" sciences in the three decades preceding plaintiff's 1985 denial of tenure. Testimony of former Vassar biology professors related the events of their careers at Vassar and expressed their belief that the Vassar biology department discriminated against married women. The Plaintiff sponsored testimony by several experts in the field of biology and voluminous documentation comparing her teaching and scholarly record to other Vassar biology professors who had received tenure and promotion. Part of plaintiff's claim of sex discrimination due to her marital status involves the fact that plaintiff left formal academia for approximately eight years in order to raise a family.

Questions

1. Is this case one of Disparate Impact or Disparate Treatment?
 2. What is the legal basis/provision for the alleged discrimination?
 3. What would be her prima facie case?
 4. Based on your answer to #2, what defense would Vassar College ("Defendant") use?
 5. What information would the Plaintiff's attorneys ask for? Defendant's attorneys?
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**Texas Commission on Human Rights v. Presbyterian Children's Home and Service Agency,
No. D-2170, 847 S.W.2d 227, Decision No. 75-186**

This case involved a Jewish applicant whose application for employment at a Christian adoption agency was rejected due to her religion. The Agency is a nonprofit Texas corporation founded by and affiliated with the Presbyterian Church. In 1988, when Georgette Speer applied for the position of senior adoption worker at the Agency, it provided child care and adoption services to needy children. During a job interview, Speer identified herself as Jewish; an employee for the Agency informed Speer that it had a policy of hiring only Christians. The day after the interview, Speer completed the Agency's employment application, which included the following question: "Do you feel that you can serve without reservation in this Agency, which is operated by the Presbyterian church, if you are not a Presbyterian?" Speer answered "Yes." On June 8, 1988, Speer was sent a rejection letter informing her that the Agency hired only Christians.

Questions

1. Is this case one of Disparate Impact or Disparate Treatment?
 2. What is the legal basis/provision for the alleged discrimination?
 3. What would be her prima facie case?
 4. Based on your answer to #2, what defense would the Agency ("Defendant") use?
 5. What information would the Plaintiff's attorneys ask for? Defendant's attorneys?
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Weeks v. Southern Bell Telephone & Telegraph Co. 408 F.2d 228 (5th Cir. 1969)

Mrs. Weeks' bid for the job of switchman was denied by Southern Bell. The job went to the only other bidder for the job, a man with less seniority than Mrs. Weeks. Southern Bell regarded the position as one requiring "strenuous activity" for which women were not qualified. Primarily, this activity consisted of occasionally lifting objects between 30 and 40 pounds. Mrs. Weeks filed a complaint with the EEOC, but when the matter could not be resolved there, she filed suit.

Questions

1. Is this case one of Disparate Impact or Disparate Treatment?
 2. What is the legal basis/provision for the alleged discrimination?
 3. What would be her prima facie case?
 4. Based on your answer to #2, what defense would the school ("Defendant") use?
 5. What information would the Plaintiff's attorneys ask for? Defendant's attorneys?
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Furnco Construction Corp v. Waters, et al, 438 U.S. 567 (1978) (this is the appeal case)

Furnco Construction Corp., specializing in firebrick installation in steel mills was charged with discrimination against Blacks in its hiring of bricklayers. The company delegated hiring entirely to its supervisors, some of whom hired people they knew to have the skills or people who had been recommended to them. The company did not hire people who applied at the gate. The applicants were fully qualified minority members who were turned down from applying at the gate. They said that the hiring policy unnecessarily cut the company off from black bricklayers.

The company responded that the policy was the best way to avoid the costly losses caused by incompetent work. They presented evidence from a union study that showed that 20% of the bricklayers hired by the company were Black, while only 5.7% of the bricklayers in the relevant labor market were Black.

Questions

1. Is this case one of Disparate Impact or Disparate Treatment?
 2. What is the legal basis/provision for the alleged discrimination?
 3. What would be the Plaintiffs' prima facie case?
 4. Based on your answer to #2, what defense would Furnco ("Defendant") use?
 5. What information would the Plaintiffs' attorneys ask for? Defendant's attorneys?
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Acanfora v. Board of Education of Montgomery County, 359 F. Supp. 483 (U.S. D.C., Md. 1972)

A public high school teacher publicly proclaimed his homosexuality on television talk shows and in interviews with reporters. In these he noted that there was little factual basis for concern that homosexuals have an adverse effect on the children they teach. The school board dismissed him, claiming that the controversy was disruptive. The teacher filed suit, charging that the school board had violated his rights to due process and equal protection under the law by dismissing him because of his sexual orientation.

Questions

1. Is this case one of Disparate Impact or Disparate Treatment?
 2. What is the legal basis/provision for the alleged discrimination?
 3. What would be his prima facie case?
 4. Based on your answer to #2, what defense would the school board ("Defendant") use?
 5. What information would the Plaintiff's attorneys ask for? Defendant's attorneys?
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Ginter, et al v. Hooters, Inc., et al, 1996 WL 164427, N.D. Ill, (No. 93 C 7709, 94 C 6338)

Plaintiffs claimed that they were the victims of gender discrimination because they were not hired by Defendants for “front of the house” positions (e.g., waitstaff, host, cashier). They asserted that Defendants implemented a policy refusing to hire men. Defendants asserted that customers primarily came to the restaurants to see scantily-clad women. Plaintiffs applied for positions as waiters but were not offered jobs, despite the fact that they all were experienced waiters. Women who applied after these Plaintiffs were hired.

Questions

1. Is this case one of Disparate Impact or Disparate Treatment?
2. What is the legal basis/provision for the alleged discrimination?
3. What would be their prima facie case?
4. Based on your answer to #2, what defense would the restaurants (“Defendants”) use?
5. What information would the Plaintiffs’ attorneys ask for? Defendants’ attorneys?

Holly v. Clairson Indus. LLC , 11th Cir., No. 06-13365 (July 19, 2007)

Clairson Industries LLC, a custom plastic injections molder, hired Tommy Holly, a paraplegic, as a “mold polisher.” As a result of mobility problems, Holly was sometimes late to work.

Clairson subsequently instituted a “no-fault” attendance policy. Under the policy, each absence counted as one “occurrence” and a tardy counted as one-half occurrence without exception. Employees clocking in late for any reason received a one-half occurrence, even when paid vacation time was used for a planned event such as going to the doctor. An employee clocking in even one second late received a one-half occurrence. After nine occurrences, the policy required termination.

Despite 17 years of strong work performance during which Clairson informally accommodated Holly’s disability-related tardiness, Clairson terminated Holly based on the new policy. Holly sued, claiming that Clairson failed to reasonably accommodate him in violation of the ADA and the Florida Civil Rights Act of 1992 (FCRA). He claimed that Clairson should have let him occasionally clock in late and make up lost time during breaks or overtime, as he had been allowed to do for the previous 16 years. Clairson denied violating the ADA or the FCRA, claiming Holly was not a “qualified individual” because he could not perform the essential function of being punctual.

Questions

1. Does Holly have a case under ADA?
2. What is the legal basis/provision for the alleged discrimination?
3. What would be Holly’s prima facie case?
4. Based on your answer to #2, what defense would Clairson (“Defendant”) use?
5. What information would the Plaintiffs’ attorneys ask for? Defendant’s attorneys?