

You Can't Beat the Real Thing: Coca-Cola Prevails in Discrimination Suit

Details

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The First Circuit Court of Appeals recently considered a case in which a former Coca Cola employee claimed that he was discriminated against based upon his race and his national origin. Coca Cola claimed that the employee was fired for failing to follow the proper procedure for taking vacation time. The United States District Court for the District of Massachusetts determined that there was no evidence that the decision was discriminatory in nature. The Court of Appeals upheld this decision.

Background Facts

Dudley Thompson, an African-American originally from Jamaica, started working in 2000 as one of four production supervisors in the quality assurance department at Coca-Cola's Northampton, Massachusetts production plant. During his employment, Thompson was considered to be an overall good employee. However, he had been reprimanded several times for being late to work, and was given "informal coaching" by production managers to help improve his job performance.

According to Thompson, one of his supervisors, Gerald Goodsell, complained about reggae music playing at the annual holiday party by stating, "I hate Jamaican music and Jamaicans." On another occasion, in August or September 2003, Goodsell said to Thompson, "I'll deal with you, you (expletive) Jamaican." Thompson did not report these comments to anyone at Coca-Cola.

In April 2002, Donna Harris, a Caucasian quality assurance supervisor who was not in Thompson's chain of command, said to another employee also of Jamaican origin, "I'm not one of (Thompson's) Jamaican bimbos." Thompson and the other employee reported the incident to John Newton, the quality assurance manager. The human resources manager discussed the inappropriate comments with Harris, and Harris was required to apologize and attend sensitivity training.

On August 29, 2003, in response to coverage problems, the plant manager sent an email to all of the production supervisors outlining procedures for vacation time. In order to take vacation, production supervisors would be required to obtain coverage from another production supervisor, request the vacation time in writing from the direct manager, notify all of the other production supervisors, and enter the requested vacation time into a computerized spread sheet.

In the fall of 2003, Thompson required dental surgery and elected to have the surgery performed in Jamaica because it would be less expensive. By December, the need for surgery became urgent. He informed management that he needed to travel to Jamaica for surgery, and one of the other supervisors, Duval, agreed to cover his shifts. Thompson claims that he informed Duval of the dates, and also told him that there was a possibility that he would need to extend his time off depending on how the surgery went. Duval denies knowing the dates or of the possibility of additional time off.

Once he was in Jamaica, Thompson realized that he would be out longer than he initially expected. Thomson called Goodsell and left him a message to that effect. Goodsell did not respond to the message. Goodsell reported that Thomson had failed to comply with the vacation policy in that he did not request the time off in writing, did not arrange for his shifts to be covered, and did not get prior approval for the time off. When Thomson returned, he was terminated.

Thomson filed suit, claiming that he was retaliated against because of his race and national origin. Coca-Cola argued that Thompson was terminated for taking unauthorized vacation time without giving proper notice.

Legal Analysis

To prove discrimination, Thompson had to establish that he was a member of a protected class, that he suffered harm as a result of Coca Cola's adverse employment action, and that Coca Cola harbored discriminatory animus, which was the determinative cause of the adverse action. The burden then shifted to Coca-Cola to present a legitimate, non-discriminatory reason for his termination. The Court found that Thompson met his initial burden based on the facts outlined above. However, the Court also found that Coca Cola had a legitimate, non-discriminatory reason for the termination – namely Thompson's failure to follow its vacation procedures. It has undisputed that Thompson did not request the additional time off in writing, did not obtain coverage for his shifts, and did not enter the time into the spreadsheet as required.

Since Coca Cola had shown a legitimate, non-discriminatory reason for the termination, the burden shifted back to Thompson to prove that this reason was actually a pretext, and the true motivation was discriminatory in nature. In this case, the Court concluded that Thompson failed to establish that Coca Cola acted with discriminatory animus. The decision to terminate Thompson was ultimately made by a Separation Review Committee at Coca Cola, and there was no evidence to suggest that the Separation Review Committee acted with discriminatory animus in reaching that decision. *Dudley Thompson v. The Coca Cola Company*, No. 07-2107, 1st Cir. April 15, 2008

Bottom Line

An Employers' decision to terminate an employee must be based upon legitimate, non-discriminatory reasons. In this case, the employee's failure to follow the proper

procedures and protocol when requesting time off sufficed to meet burden of establishing that the termination was not discriminatory in nature.

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