IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED
February 11, 2020

Lyle W. Cayce
Clerk

No. 19-30512
Summary Calendar

CHAD LANDRENEAU,

Plaintiff - Appellant

v.

BAKER HUGHES A G E COMPANY, L.L.C., formerly doing business as Baker Hughes, Incorporated,

Defendant - Appellee

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 6:17-CV-773

Before DAVIS, SMITH, and HIGGINSON, Circuit Judges.

STEPHEN A. HIGGINSON, Circuit Judge:*

Chad Landreneau appeals the district court's grant of summary judgment on his sex discrimination claim under the Louisiana Employment Discrimination Law, La. R.S. 23:332. We affirm.

Landreneau worked in the Human Resources (HR) department at Baker Hughes for five and a half years, first as an HR Generalist and ultimately as

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

an HR Business Partner. Baker Hughes conducted annual evaluations of Landreneau's performance, and in his first four years he received a rating of three out of four, which the company defines as "meets expectations." In 2015, he received a four, or "exceeds expectations." In early 2016, Landreneau began working under a new supervisor. In June of that year, the new supervisor gave Landreneau a verbal warning for his role in allegedly backdating a COBRA notification letter sent to an employee who had been terminated. Landreneau denies any involvement in this mistake. The new supervisor also gave him a written warning for allegedly mischaracterizing a Reduction in Force (RIF) as eliminating the relevant position, when in fact two other employees took over the position for the individual who was terminated. Landreneau similarly denies that he made any error regarding this situation. Based in part on these warnings, his new supervisor gave him a two, or "partially meets expectations" during his 2016 annual evaluation.

In the months before Landreneau's termination, Baker Hughes restructured the HR department and created a new position at Landreneau's location called HR Manager. Because the company decided that the restructuring should result in either the same or fewer employees in the department, an HR Business Partner position had to be eliminated to create the HR Manager position. Landreneau did not apply for the new position. After the new manager was selected, Baker Hughes chose Landreneau's position to be eliminated. Landreneau was terminated on January 18, 2017.

Landreneau sued Baker Hughes claiming sex discrimination in Louisiana state court on April 19, 2017. He contends that his position was chosen to be eliminated because his new supervisor, a female, discriminated against him on the basis of his sex. He alleges that his new supervisor wanted the HR department to be entirely female, and she therefore rated him lower than every other person working for her, all of whom were female. He also

alleges that she manufactured the disciplinary warnings he received to keep in place a policy of sex discrimination within the HR department. The case was removed to federal court on June 16, 2017. The district court granted summary judgment in favor of Baker Hughes on June 3, 2019.

"This court reviews a district court's grant of summary judgment de novo, applying the same legal standards as the district court." *Tradewinds Envtl. Restoration, Inc. v. St. Tammany Park, LLC*, 578 F.3d 255, 258 (5th Cir. 2009) (quoting *Condrey v. SunTrust Bank of Ga.*, 429 F.3d 556, 562 (5th Cir. 2005)). "Summary judgment is appropriate when 'the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.'" *United States v. Nature's Way Marine, L.L.C.*, 904 F.3d 416, 419 (5th Cir. 2018) (quoting Fed. R. Civ. P. 56(a)). The court reviews all evidence in the light most favorable to the non-moving party. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

Because the Louisiana employment discrimination statute is similar to Title VII, courts have held that claims under the statute may be analyzed according to applicable federal precedents. *Artigue v. Wal-Mart Stores, Inc.*, 13-537 (La. App. 3 Cir. 2/12/14) 154 So. 3d 1, 6; *La Day v. Catalyst Tech., Inc.*, 302 F.3d 474, 477 (5th Cir. 2002). Landreneau relies on circumstantial evidence to prove his claim, meaning that the burden-shifting framework of *McDonnell Douglas Corporation v. Green*, 411 U.S. 792 (1973), applies. *Herster v. Bd. of Supervisors of La. State Univ.*, 887 F.3d 177, 184 (5th Cir. 2018). To prevail, a plaintiff must first establish a prima facie case of intentional discrimination. *Alvarado v. Texas Rangers*, 492 F.3d 605, 611 (5th Cir. 2007). The burden then shifts to the employer to "articulate a legitimate, nondiscriminatory reason for its actions." *Id.* If the employer does so, the burden shifts back to the plaintiff to establish: "(1) that the employer's proffered reason is not true but is instead a pretext for discrimination; or (2)

that the employer's reason, while true, is not the only reason for its conduct, and another 'motivating factor' is the plaintiff's protected characteristic." *Id.*

The district court held in part that Landreneau failed to establish a prima facie case because he did not identify a similarly-situated woman who was treated more favorably. To meet his burden at this stage, Landreneau must show, among other things, that "others similarly situated but outside the protected class were treated more favorably." *Id.* To be "similarly situated" the employees being compared must have: "held the same job or responsibilities, shared the same supervisor or had their employment status determined by the same person, and have essentially comparable violation histories." *Lee v. Kansas City S. Ry. Co.*, 574 F.3d 253, 260 (5th Cir. 2009) (citations omitted). Further, the conduct that drew the adverse employment action must have been "nearly identical to that of the proffered comparator who allegedly drew dissimilar employment decisions." *Id.* (quotation marks omitted).

As the district court explained, Landreneau has failed to identify a similarly-situated, female employee who was treated more favorably. Landreneau does not seriously contest that he has no similarly-situated comparator whose position was retained when he was terminated. Instead, Landreneau argues that his supervisor engaged in sex discrimination by manufacturing warnings against him in order to give him a low rating, thus making him ineligible for the HR Manager position that she knew would be available at the end of the year. He uses Da'Nae Fox as a comparator because during 2016 she and Landreneau were both HR Partners, but she received a year-end rating of four, while Landreneau received a two from the same supervisor. Landreneau argues that this disparity in ratings allowed Fox to be selected for the HR Manager position and made him ineligible for the position.

Fox is not similarly situated to Landreneau because Landreneau's rating was based on the warnings that he received, and Landreneau does not attempt to show that Fox engaged in similar behavior and was not warned. Indeed, Landreneau does not identify any reason that Fox was undeserving of her performance rating. Further, as to Landreneau's allegation that his warnings were manufactured, it is undisputed that others were involved in both of the incidents giving rise to Landreneau's warnings. But Landreneau has not identified a woman who received different treatment for similar involvement in these incidents. As the district court held, Landreneau has therefore failed to make the required showing that a woman was treated more favorably at any point during his employment. *See Lee*, 574 F.3d at 260.

Accordingly, because Landreneau has not made a prima facie case of intentional discrimination, the judgement of the district court is AFFIRMED.