UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 91-7287

(Summary Calendar)

LISA FOWLER,

Plaintiff-Appellant,

VERSUS

BURNS INTERNATIONAL SECURITY SERVICES, INC.,

Defendant-Appellee.

Appeal from the United States District Court
For the Northern District of Mississippi
(WC 89 81 S O)

(November 19, 1992)

Before KING, EMILIO M. GARZA, and DeMOSS, Circuit Judges.

EMILIO M. GARZA, Circuit Judge:[*]

After a non-jury trial, Lisa Fowler received an unfavorable judgment in her Title VII action against her employer, Burns International Security Services, Inc. She contends that the district court's findings of fact were clearly erroneous. Finding no clear error, we affirm.

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[*] Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

I

Lisa Fowler originally filed this Title VII action against her employer, Burns International Security Services, Inc. ("Burns") and her supervisor, Cletus Meeks. Fowler filed suit after Burns had fired her for leaving her guard post unattended. Fowler claimed that she was the victim of sexual harassment. She alleged that Meeks made sexual advances on a regular basis, and threatened to fire her if she did not have sex with him.

Burns proceeded to trial alone because the court granted summary judgment for Meeks before trial. At a non-jury trial, the district court heard four days of testimony, at the conclusion of which the court stated its findings of fact and conclusions of law. The district court stated that the testimony given by Fowler and her witnesses was either not credible or did not meaningfully support her claim. In addition, the district court found the testimony of Burns' witnesses was credible and unbiased. Consequently, the district court ruled for Burns, finding that Fowler had not proven that Meeks had sexually harassed her. Fowler appeals, contending that the district court factual finding was clearly erroneous.

II

A federal appellate court may set aside a district court's findings of fact only if they are "clearly erroneous". Fed. R. Civ. P. 52(a); *Amadeo v. Zant,* 486 U.S. 214, 223, 108 S. Ct. 1771, 1777, 100 L. Ed. 2d 249 (1988). Deference is shown to the district

court's findings of fact because the district court has a unique opportunity to determine a witness's credibility and has experience in making fact determinations. *See Anderson v. City of Bessemer City, N.C.,* 470 U.S. 564, 574, 105 S. Ct. 1504, 1512, 84 L. Ed. 2d 518 (1985) (duplicating the fact finding effort by the district court would contribute only negligibly to accuracy in fact determinations). "If the district court's account of the evidence is plausible in light of the record viewed in its entirety, [this court] may not reverse it even though convinced that had [we] been sitting as the trier of fact, [we] would have weighed the evidence differently." *Zant,* 486 U.S. at 223, 108 S. Ct. at 1777 (quoting *Anderson,* 470 U.S. at 573-74, 105 S. Ct. at 1511).

Significant evidence in the record shows that the testimony of Fowler and her witnesses was either incredible, inconsistent, or not helpful. *See, e.g.,* Record on Appeal, vol. 3, at 121-24 (on cross-examination, Fowler admitted to having lied about going to the hospital for injuries she alleges her husband inflicted upon her, after telling him of her sexual harassment). Moreover, the record does not reveal documentary or objective evidence so contradictory to the testimony of Burns' witnesses as to make their testimony completely incredible or unreliable. *See Anderson*, 470 U.S. at 575, 105 S. Ct. at 1512 (an appellate court may find clear error where there are documentary contradictions or internal inconsistencies within a witness's testimony, such that a reasonable factfinder would not credit the testimony). Thus, viewing the record in its entirety, the district court's account of

the evidence is plausible. *See Anderson,* 470 U.S. at 574, 105 S. Ct. at 1511 ("Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous."). Accordingly, the district court's factual finding that Fowler did not prove her allegations of sexual harassment was not clearly erroneous.

III

For the foregoing reasons, we **AFFIRM.**