

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3885
Summary Calendar

GENEVA LANDRY,

Plaintiff-Appellant,

versus

ST. JAMES PARISH SCHOOL
BOARD, ET AL.,

Defendant-Appellees.

Appeal from the United States District Court
For the Eastern District of Louisiana
(CA-92-896-L)

(September 2, 1994)

Before POLITZ, Chief Judge, SMITH and DUHÉ, Circuit Judges.

POLITZ, Chief Judge:*

Geneva Landry, a black female, appeals an adverse jury verdict in her action complaining of race discrimination and retaliation by her employer. Finding no error we affirm.

Background

The St. James Parish School Board advertised for the position

*Local Rule 47.5 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

of part-time assistant principal at St. James High School. Landry, a special education teacher employed by the Board and possessing the required formal credentials, joined five other applicants for the position. The selection committee, consisting of three black and two white members, interviewed the applicants and ranked Brenda Leonards, a white female, first; Doris Jacobs, a black female, second; and Landry third. After the committee's recommendations were made, Dr. Karen Poirrier, the superintendent of the parish school system, discovered that of the three highest-rated applicants only Landry possessed state certification to serve as an assistant principal. Dr. Poirrier gave the committee the option of beginning the search process anew or hiring the top applicant as an administrative professional aide instead of as an assistant principal. The committee chose the latter option and Leonards was appointed. Soon thereafter a comparable position was opened and Jacobs was appointed. In the interim Landry filed a claim with the EEOC alleging race discrimination. She also alleged that she was denied the job in retaliation for her husband's previous race discrimination lawsuit against the Board. After the EEOC declined to pursue the matter the instant action was filed and tried. The jury returned a verdict for the Board. Landry timely appealed.

Analysis

As Landry recognizes, her attempt to overturn a judgment on a jury verdict faces a substantial obstacle. To secure a reversal Landry must have presented evidence at trial pointing "so strongly and overwhelmingly" in her favor that "reasonable men could not

arrive at a contrary conclusion."¹ In race discrimination and retaliation cases, a defendant's showing of legitimate, non-discriminatory reasons for its employment decision places the burden on the plaintiff to prove, by a preponderance of the evidence, that the reasons assigned were a mere pretext for what actually were intentional race-based and/or retaliatory biases.²

Landry maintains that the evidence established overwhelmingly that the rationale given -- that she was not as qualified as the two higher-ranked applicants -- was both false and pretextual. Neither of the two priming applicants possessed state certification to become an assistant principal. By definition, she therefore contends, she was more qualified than the others.

This argument is not persuasive. It is not disputed that the committee members were unaware that Leonards and Jacobs lacked a particular state certification when they made their ranking and recommendations to the superintendent. They ranked the applicants based on a number of factors. Neither Landry's suggestion that her treatment was exceptional, an attempt to underscore her claim of bias by implication and inference, nor her claim that she necessarily had superior qualifications because of the state certification she possessed, is supported by the overwhelming proof required for rejection of the jury's verdict.

In fine, the record simply does not support Landry's assertion

¹**Pagan v. Shoney's, Inc.**, 931 F.2d 334, 337 (5th Cir. 1991).

²See, e.g., Moham v. Steego Corp., 3 F.2d 873 (5th Cir. 1993), cert. denied, 114 S.Ct. 1307 (1994).

that her non-selection was based on racial or retaliatory animus. One of the two positions was filled by a black female.³ Further, the committee members unqualifiedly testified that neither her race nor her husband's lawsuit played any part in their recommendations. Those recommendations, according to Eldridge Steptoe, the former supervisor of instruction for the parish and one of the three black members of the selection committee, were based on the committee's overall assessment that Landry was significantly less qualified than either Leonards or Jacobs for the duties at issue.

We conclude that a rational jury acting reasonably could find that Landry had not proven racial or retaliatory animus in the Board's hiring decisions. Landry has not satisfied the standard of review required for rejection of a jury verdict.

The judgment appealed is AFFIRMED.

³Cf. **Jenkins v. State of Louisiana thru the Department of Corrections**, 874 F.2d 992 (5th Cir. 1989), cert. denied, 493 U.S. 1059 (1990) (when terminated black employee claims racial discrimination, replacement by black person undermines claim). Landry argues that the appointment of Jacobs, which occurred after Landry's suit was filed, was a transparent effort to cover up the previous episode of discrimination. While this is one reasonable interpretation of those events, it is not the only permissible interpretation. A jury could rely on Jacobs' hiring as creditable evidence that the selection committee and the Board harbored no racial animus.