

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 93-7246  
Summary Calendar

---

JANET CAMERON,

Plaintiff-Appellant,

versus

MARVIN RUNYON, Post Master,  
Post Master General of the  
United States,

Defendant-Appellee.

---

Appeal from the United States District Court  
for the Southern District of Texas  
(CA-G-92-406)

---

(March 31, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Appellant Janet Cameron takes issue with two evidentiary points involved in her Title VII sexual harassment claim against the U.S. Postal Service. Her case, brought on account of a sexual relationship she had with her boss for about one year, was tried to an advisory jury, which found against her. The court, for reasons

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

not evident in the record, discarded the advisory jury's verdict and entered its own findings and conclusions in favor of appellee. Cameron does not assert that the verdict is bereft of supporting evidence, but instead, she asserts that introduction of the challenged evidence impermissibly tainted the court's decision. We disagree and affirm.

Evans first contends that the trial court erred in allowing the postal service to assert the "defense" of consensual sexual conduct, which allegedly surprised Cameron unfairly at trial. Answering interrogatories shortly before trial, the postal service stated that it "had not made a determination" as to the consensuality of Cameron and her boss's relationship. At trial, however, under cross examination, the postal service's investigator, who had signed the interrogatories, explained that she had long ago formed the personal opinion that the relationship was consensual. Cameron's counsel asked the court to strike this testimony and sanction the postal service for taking a position inconsistent with its interrogatory answers. The court refused to do so. The court permitted considerable cross-examination about the inconsistency and apparently determined that the investigator's explanation went to the weight and credibility rather than the admissibility of the testimony.

This court reviews questions concerning the prudence of admission or exclusion of evidence under an abuse of discretion standard. Here, we find no abuse. Moreover, if there was an error, it was harmless. There was other evidence in the record of

the consensual nature of the relationship. And, in his findings of fact and conclusions of law, the trial court clearly found Cameron's supervisor the more credible witness concerning the nature of the relationship.

Cameron also complains that the court improperly admitted evidence of two romantic affairs that Cameron engaged in after her relationship with the supervisor terminated and before her divorce became final. Whether this evidence should have been admitted is dubious. The postal service's post hoc rationale for admitting it -- to impeach Cameron's testimony that her affair with her boss was coerced because she was married -- was not clearly presented in the trial court. But we need not speculate further on this evidence, because the trial court took no account of it in his findings and conclusions, and the judge's comments on limiting the nature of this testimony demonstrate that he was well aware of its limited probative value. Any error in admitting this testimony was harmless.

The judgment of the trial court is **AFFIRMED**.