

Tanglewood case 3 essay sample

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Employment Law

Final Exam

Riyadh vs. ABC Advertising (ABC)

Sex and Religious Discrimination

Ms. Riyadh believes she is being discriminated against for religious beliefs and gender discrimination. In this Title VII discrimination case Ms. Riyadh will have to establish a Prima Facie Case proving religious and gender or sex discrimination. The company (ABC) will have the burden of proof of proving their failure to promote Ms. Riyadh to a higher position is not related to her religion or her sex. Ms. Riyadh has to prove she was intentionally discriminated against due to said reasons. Ms. Riyadh's Prima Facie will be based on both sex and religious discrimination. Her religious discrimination case is based on the fact she takes daily prayer and meditation breaks, her religion prohibits certain types of fraternizing such as drinking alcohol, eating certain foods. Also, her sex discrimination case will be based on the fact ABC has promoted more men than women in all positions at ABC. Management could argue the fact they did in fact promote some women in the company.

The company could also argue the fact it is in the best interest of the company to actually have employees who can market and fraternize better than Ms. Riyadh who may be restricted due to her religious beliefs. ABC argues that in the advertising field, it is essential that higher administrative employees project a polished appearance and engage in social and fraternal activities in order to obtain and conduct business. Ms. Riyadh could argue this is a violation of Title VII of the Civil Rights Act. Ms. Riyadh could also

argue that she was promised she would be promoted in 2 years provided she did a good job.

I'm sure the company was aware of her religious beliefs when she started. Ms. Riyadh received outstanding evaluations and outperformed her male counterparts. She has also won three national awards. According to the Glass Ceiling Commission it is recommended that businesses commit to workplace diversity, and all qualified individuals have an opportunity to compete based on ability and merit. This case could be difficult to judge because both parties knew certain things about each other before employment began. ABC knew Ms. Riyadh religious beliefs before she was hired and Ms. Riyadh knew that if she was promoted, she may possibly socialize and fraternize more outside of her comfort zone. In a way, this can be compared to the EEOC vs. Kelly Services. The plaintiff did not want to remove her khimar. Kelly Services did prevail, or the EEOC vs. Alamo Car Rental (Twomey p. 419-420) when the plaintiff did not want to remove her head scarf. It's similar in that it was requested by the employers for the employee to alter their appearance due their religious beliefs to even work.

(1) UPS Disability Case

Management could argue the deaf workers did not need special accommodation because they did in fact receive the training and could watch demonstrations on the video. Also, the company claims the workers are not disabled for the purpose of handling packages. Employees could argue they are disabled for some task and not disabled for other task. They

could also argue they missed or misinterpreted certain points of the instruction.

The ADA states that reasonable accommodations may include the following: Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or device, appropriate adjustment or modifications of examinations, training material or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. An employer is not obligated under the ADA to make accommodations that would be an “ undue hardship” on the employer. If the company is a small company with greater resources it may be feasible, however, if it is a smaller company, it may be more difficult to accommodate. Being this a private and possibly smaller company, it would be difficult for the employers to win as the company could argue the employees should have made the company aware of any inability to interpret the video. Also, it could cause a hardship on the company to edit or create new videos to accommodate the employees.

(2) Bob Smith vs. Saturn

I don't feel the court should grant Saturn's request and overrule the arbitrator. There was no just cause and this could have happened to anyone. The company failed to follow one of the important steps and that was “ fact finding” and to actually acknowledge the reason why he was late. Arbitration offers employers and unions a relatively fast and inexpensive method of resolving disputes that may arise under their collective bargaining agreements. Because the parties themselves select the arbitrator, who is

usually an expert on the issue in dispute, there is usually prompt compliance with the arbitrator's award. Were the parties able to challenge the award through the courts on a wide range of theories, the advantages of low cost and finality of the arbitration process would be lost. The courts have been keenly aware of this situation and allow challenges to arbitrators' decisions only on very narrow grounds. It is most unusual indeed for a losing party to succeed in a court challenge to an arbitration decision. (Twomey, p. 289)

(3) Martha vs. Good Food Supermarket

An employer may make pre-employment inquiries into the ability of a job applicant to perform job-related functions. Under the new user friendly EEOC guidelines under the ADA, an employer may ask applicants whether they will need reasonable accommodations in the hiring process. If the answer is yes, the employer may ask for reasonable documentation of the disability. The employer may not ask if an applicant will need reasonable accommodation to do the job, however, the employer may make pre employment inquiries regarding the ability of a job applicant to perform job related functions. If the employer chooses not to hire the applicant, they could possible make a defense stating the job duties would further damage an existing condition. The employer must make an individualized medical risk assessment of the applicant's condition. The applicant could argue it would be the employers' duty to provide reasonable accommodations under the ADA. If the company is a smaller company, they may not be able to make reasonable accommodations without hardship to the company. I don't feel Martha has a good case.

(4) Patsy vs. Tom's Irish Pub

On November 10, 1980, the EEOC issued Sex Discrimination Guidelines. The guidelines define sexual harassment as follows: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment. In order for Patsy to establish a Prima

Facie Case, she would have to demonstrate the following: a. That she belongs to a protected class.

b. That she was subjected to unwelcome sexual harassment

c. That the harassment was based on sex

d. That a result of the plaintiff's refusal to submit to a supervisor's sexual demand, an adverse tangible employment action—official act of the enterprise—was taken against the plaintiff. I feel Patsy will prevail in this case against the pub. Patsy was exposed to discrimination due to her sex. Also, she asked for another waitress to be assigned to Simon's table and her requests were ignored. This did in fact expose Patsy to a hostile work environment. Tom did not take the necessary steps to prevent Patsy from being placed in a hostile environment. Similar to the case of Bundy vs. Jackson, Bundy was not terminated for refusing her supervisor's advances. Her claim in part stated that "conditions of employment" as set forth in Title VII include the psychological and emotional work environment.