

Supreme Court rules in sex harassment case

On June 14, 2004, the U.S. Supreme Court ruled that a woman could sue her former employer for sexual harassment and constructive discharge (that is, her work environment was so intolerable that she was forced to resign) under the Civil Rights Act of 1964. The court also said that the employer could defend itself by arguing that it had a sexual harassment grievance process in place and that the employee had failed to use the process.

The Case

Nancy Suders was hired as a police communications operator for the Pennsylvania State Police (PSP) in March 1998. Suders' three supervisors subjected her to a continuous barrage of sexual harassment while she was a PSP employee. The supervisors repeatedly talked about sex and made obscene gestures to her.

In June 1998, Suders first contacted PSP's Equal Employment Opportunity (EEO) Officer, indicating that she might need some help. On August 18, Suders again contacted the EEO Officer, stating that she was being harassed and was afraid. The officer told Suders to file a complaint, but did not tell her where to get the necessary form.

As part of her job, Suders was required to pass a computer skills exam. Suders took the test several times and was told by her supervisors that she had failed each time. One day, Suders came across her tests in a drawer. Suders believes that the supervisors had never sent the tests out to be graded. Regarding the tests as her property, she removed them. Suders' supervisors suspected that she had removed the tests and anticipated that she would return them. They dusted the drawer with a theft detection powder that would stain a person's hands when touched. When Suders returned the tests, her hands were stained.

On August 20, Suders' supervisors arrested her for theft of the tests. They photographed her hands and interrogated her. After Suders said she wanted to resign, they released her. The PSP never brought theft charges against her.

In September 2000, Suders sued PSP in Federal District Court alleging that she had been subjected to sexual harassment and constructively discharged in violation of the Civil Rights Act. The court dismissed the case indicating that, although the supervisors may have created a hostile work environment, PSP was not liable for the supervisors' actions. Suders appealed to the Third Circuit Court of Appeals which reversed the decision and sent the case back for trial. The court ruled that a constructive discharge, if proved, constitutes a tangible employment action that renders an employer strictly liable.

PSP then appealed to the U.S. Supreme Court. The Supreme Court agreed with the Third Circuit that Suders could sue her employer for constructive discharge. The court also said that the employer could avoid liability by proving that 1.) it had exercised reasonable care to prevent and promptly correct any sexually harassing behavior and 2.) the employee had unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer.

What does this case mean to employers?

This case states that an employer may defend itself from constructive discharge lawsuits by arguing that it had a grievance process in place to resolve sexual harassment complaints and that the employee chose not to use it.

If you have any questions, contact CTSI at 303-861-0507.

County Technical Services, Inc.

800 Grant St., Suite 400
Denver CO 80203

303.861.0507
FAX: 303.861.2832

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