

Court says employer has legitimate, non-discriminatory reason for denying a promotion to a 55-year old employee

The Tenth Circuit Court of Appeals which covers Colorado recently ruled that an employer was not violating the Age Discrimination in Employment Act (ADEA) when it failed to promote a 55-year old employee and promoted another better-qualified applicant instead.

The Case

Judith Martens started working as a letter carrier for the United States Postal Service (USPS) in 1993. In 1997, at age 55, Martens applied for one of three accounting technician positions. The review committee recommended Martens and five other applicants to be interviewed by the hiring manager, Arlynda Moody. Moody was authorized to select the best-qualified applicants based on her own rating of their qualifications. Moody ranked Martens as the third best-qualified candidate and selected her for one of the three positions.

Acting on a complaint, Ed Pitt, USPS's local human resources manager, reopened the selection process when he discovered that the review committee had improperly rejected some candidates without considering relevant information per USPS policy. As a result, the review committee recommended an additional four applicants, including Margaret Gorman.

Moody interviewed the additional applicants and selected Gorman, instead of Martens, to fill one of the positions. Moody said that Gorman had "already performed the full duties of the position of accounting technician" on a project under Moody's supervision and had demonstrated "outstanding work ethic and

performance." Moody said she would have selected Gorman in the first place if she had been on the initial list of applicants.

Martens sued in U.S. District Court in Western Oklahoma, alleging that USPS had failed to promote her in violation of the Age Discrimination in Employment Act. The district court dismissed her claim.

Martens then appealed to the Tenth Circuit Court of Appeals claiming that the reason USPS gave for selecting another candidate was a pretext, rather than a legitimate, non-discriminatory reason. The appeals court agreed with the lower court that Martens had failed to show that USPS's reason for failing to promote Martens was a pretext.

The court wrote, "Ms. Martens presents no evidence to dispute USPS's evidence the Gorman had legitimate advantages over Ms. Martens because of her prior experience on an accounting technician project and Moody's personal knowledge of her work ethic and performance on that project."

What this case means to counties

This case shows that the courts support employers when they select the best-qualified applicants for positions. Counties may be able to avoid lawsuits such as this one by strictly following their hiring policies and procedures.

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