STATE OF MICHIGAN

COURT OF APPEALS

GWENDOLYN M. REEDUS,

Plaintiff-Appellant,

v

COUNTY OF WAYNE and JAMES MURRAY,

Defendants-Appellees.

UNPUBLISHED
September 15, 1998

No. 198390
Wayne Circuit Court
LC No. 95-528394 CK

Before: Holbrook, Jr., P.J., and Markey and Whitbeck, JJ.

PER CURIAM.

Plaintiff appeals by right an order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(10) with regard to her claims of intentional race discrimination and retaliatory discharge in violation of the Michigan Civil Rights Act, MCL 37.2101 *et seq*.; MSA 3.548(101) *et seq*. We affirm.

I

Among other things, a plaintiff seeking to set forth a prima facie case of intentional discrimination must establish that the person who discharged her "was predisposed to discriminate against persons in the affected class and actually acted on that disposition in discharging" her. *Reisman v Regents of Wayne State University*, 188 Mich App 526, 538; 470 NW2d 678 (1991); *Pitts v Michael Miller Car Rental*, 942 F2d 1067, 1070, n 1 (CA 6, 1991). Plaintiff argues that defendant Murray's predisposition to discriminate against her is demonstrated by: (1) his excluding of her from a special committee and the committee's subsequent meetings; (2) his interference with plaintiff's attempt to discipline a white male subordinate; (3) his statement that another situation involving a female employee had "racial overtures;" and (4) his statement that he attributed work problems he experienced with plaintiff to "cultural differences." We find these allegations insufficient to establish a prima facie case.

First, plaintiff claims that she was excluded from membership on a committee to which her subordinates were appointed. Our review of the evidence presented shows conclusively that plaintiff was on leave at the time the task force committee, a priority assignment, was organized. Furthermore, plaintiff never established that she sought to be assigned to the committee and presented no evidence

regarding the criteria that were used in deciding who should be on the committee. Consequently, this incident does not provide evidentiary support for plaintiff's claim.

Next, plaintiff asserts that Murray's interference with her attempts to discipline a white male subordinate demonstrated his racial bias against her. Because our review of the record reveals no evidence beyond plaintiff's unsupported allegations in support of this charge, this incident does not establish or support plaintiff's prima facie case.

Plaintiff also contends that Murray admitted that other supervisory employees' inability to work with plaintiff had "overtures of being racial." The context in which the remark was made allows for only speculation with regard to what Murray meant by the remark, and when read in context, the comment does not provide support for plaintiff's claim that Murray was predisposed to discriminate against *plaintiff* on the basis of her race. See *Quinto v Cross and Peters Co*, 451 Mich 358, 370-372; 547 NW2d 314 (1996); *Thomas v Hoyt, Brumm & Link, Inc*, 910 F Supp 1280, 1288 (ED Mich, 1994). Rather, the comment was not a reference to any difficulties plaintiff had with Caucasian management staff, and it could be interpreted as referring to the manner in which another employee's discrimination claim was being handled. Even though the comment is subject to speculation regarding Murray's intent, the comment, without more, provides no evidence of his predisposition to discriminate. While Murray may have acknowledged that plaintiff could have interpreted his failure to consult with her regarding the other employee's discrimination claim, he assured plaintiff that the lapse was due to inattention and nothing more. Thus, this incident also does not provide evidentiary support for plaintiff's claim that Murray was predisposed to discriminate against her.

Plaintiff further argues that Murray's remark that his difficulties in working with plaintiff and another employee were attributable to "cultural differences" evidenced his predisposition to discriminate. In the absence of factual circumstances surrounding the remark from which an invidious discriminatory animus could be inferred, the comment regarding "cultural differences," by itself, does not give rise to an inference of such animus sufficient to avoid summary disposition. See *Agarwal v Regents of the University of Minnesota*, 788 F2d 504, 509 (CA 8, 1986); *Chiaramonte v Fashion Bed Group, Inc*, 932 F Supp 1080, 1091 (ND Ill, 1996), aff'd 129 F3d 391 (CA 7, 1997). Even if discriminatory animus could be inferred from the remark, isolated incidents of racial comments are insufficient to establish a claim of race discrimination under the Elliott-Larsen Civil Rights Act. *Quinto, supra* at 371-372 & n 10; see also *Thomas, supra* at 1286, 1290.

We also note that the unidentified deposition transcript pages located in the lower court file provide little persuasive evidence in support of plaintiff's claims because they cannot be attributed to anyone and the comments are inconclusive or conflicting on several points.

In sum, none of these alleged incidents provide support for plaintiff's claim that Murray was predisposed to discriminate against her on the basis of her race. Further, there was no evidence presented to demonstrate that Murray in fact acted on a predisposition to discriminate when he *allegedly* recommended plaintiff's discharge. Consequently, even after viewing the record evidence in plaintiff's favor and granting plaintiff the benefit of any reasonable doubt, *Horn v Dep't of Corrections*, 216 Mich App 58, 66; 548 NW2d 660 (1996), we find that the trial court did not err in determining

that plaintiff failed to provide documentation establishing a prima facie case of race discrimination. *Reisman, supra* at 538.

II

In addition, plaintiff failed to establish a prima facie case of unlawful retaliation under the civil rights act. MCL 37.2701; MSA 3.548(701) provides in pertinent part:

> Two or more persons shall not conspire to, or a person shall not:
>
> (a) Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act.

To establish a prima facie case of unlawful retaliation under the Elliott-Larsen Civil Rights Act, a plaintiff must establish (1) that he engaged in a protected activity, (2) that this was known by the defendant, (3) that the defendant took an employment action adverse to the plaintiff, and (4) that there was a causal connection between the protected activity and the adverse employment action. *Deflaviis v Lord & Taylor, Inc*, 223 Mich App 432, 436; 566 NW2d 661 (1997). The mere fact that an adverse employment decision occurs after a charge of discrimination is not, standing alone, sufficient to support a finding that the adverse employment decision was in retaliation for the discrimination claim. *Booker v Brown & Williamson Tobacco Co, Inc*, 879 F2d 1304, 1314 (CA 6, 1989).

In light of the documentation presented to the lower court, plaintiff has failed to make a prima facie showing of a causal connection between her filing of a civil rights complaint in November 1994 and her discharge approximately five months later. The recorded conversation between plaintiff and Murray contained remarks indicating that he had concerns about whether plaintiff understood information disclosed during various management meetings and that he and plaintiff had communication problems months before plaintiff filed her discrimination complaint.[1] Plaintiff has therefore failed to establish that her discharge approximately five months after she filed a racial discrimination complaint with the Department of Civil Rights was anything more than mere coincidence. MCL 37.2701; MSA 3.548(701); *Deflaviis, supra*; *Booker, supra*. Thus, the trial court did not err in granting defendants' motion for summary disposition.

In view of our determination that summary disposition was properly granted, we decline to review plaintiff's damages issue.

We affirm.

/s/ Donald E. Holbrook, Jr.
/s/ Jane E. Markey
/s/ William C. Whitbeck

[1] Additionally, at a meeting held approximately ten days before plaintiff was discharged, concerns were expressed about plaintiff's work performance at the Department of Environment and about budgetary issues attributable to the fact that plaintiff and another employee occupied the same place on the organization chart where only one person could serve. This information was, however, provided by an unidentified witness in a deposition transcript.