STATE OF MICHIGAN

COURT OF APPEALS

CHERYL JEAN MACK,

Plaintiff-Appellant,

v

MACOMB INTERMEDIATE SCHOOL DISTRICT and CECILIA JEANNETTE WESOLOWSKI,

Defendants-Appellees.

UNPUBLISHED
August 28, 2001

No. 223995
Macomb Circuit Court
LC No. 98-002596-CZ

Before: Fitzgerald, P.J., and Gage and C. H. Miel*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition in this employment discrimination action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Gibson v Neelis*, 227 Mich App 187, 189; 575 NW2d 313 (1997). A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. In ruling on such a motion, the trial court must consider not only the pleadings, but also depositions, affidavits, admissions and other documentary evidence, MCR 2.116(G)(5), and must give the benefit of any reasonable doubt to the nonmoving party, being liberal in finding a genuine issue of material fact. Summary disposition is appropriate only if the opposing party fails to present documentary evidence establishing the existence of a material factual dispute. *Smith v Globe Life Ins Co*, 460 Mich 446, 455; 597 NW2d 28 (1999).

Whether a plaintiff claims that she was the victim of intentional discrimination motivated by the defendant's predisposition to discriminate against persons in the plaintiff's class or whether a plaintiff claims that the defendants' discriminatory intent can be inferred from the fact that she was treated differently than similarly situated employees in a different class, she must show that she was subject to an adverse employment action. *Wilcoxon v Minnesota Mining & Mfg Co*, 235 Mich App 347, 360-361; 597 NW2d 250 (1999).

* Circuit judge, sitting on the Court of Appeals by assignment.

In this case, plaintiff was called into three meetings to discuss the appropriate use of sick leave but no action was taken against her. When viewed objectively, such evidence does not permit a reasonable inference that plaintiff was subjected to a materially adverse employment action. *Id.* at 364. Therefore, the trial court did not err in dismissing plaintiff's racial discrimination claim.

A necessary element of a claim for intentional infliction of emotional distress is that the defendant engaged in extreme and outrageous conduct. *Teadt v Lutheran Church Missouri Synod,* 237 Mich App 567, 582; 603 NW2d 816 (1999). For an employer to call an employee into three meetings to discuss the appropriate use of sick leave may constitute an inconvenience to or petty oppression of the employee but cannot, as a matter of law, reasonably be regarded as being beyond all possible bounds of decency and utterly intolerable in a civilized society. *Doe v Mills,* 212 Mich App 73, 91; 536 NW2d 824 (1995). Therefore, the trial court did not err in dismissing plaintiff's claim for intentional infliction of emotional distress.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Hilda R. Gage
/s/ Charles H. Miel