

STATE OF MICHIGAN  
COURT OF APPEALS

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LINDA JOHNSTON,

Plaintiff-Appellant,

v

FORD MOTOR COMPANY,

Defendant-Appellee.

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UNPUBLISHED

October 26, 2001

No. 224340

Wayne Circuit Court

LC No. 97-727612-NO

Before: Holbrook, Jr., P.J., and Cavanagh and R. S. Gribbs\*, JJ.

MEMORANDUM.

Plaintiff appeals as of right an order granting summary disposition pursuant to MCR 2.116(C)(10) in favor of defendant in this gender and age discrimination case brought under the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.* We affirm.

Plaintiff argues on appeal that she established prima facie failure to promote and disparate treatment claims precluding summary dismissal. In particular, plaintiff argues that she sufficiently identified similarly situated younger or male employees who were promoted or treated more favorably. We disagree. We review the grant of a motion for summary disposition de novo, viewing the evidence in a light most favorable to plaintiff to determine whether there is a genuine issue of disputed fact on which reasonable minds could differ. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998); *Ottaco, Inc v Gauze*, 226 Mich App 646, 650; 574 NW2d 393 (1997).

To establish a prima facie case of gender or age discrimination, a plaintiff must show that she was “(1) a member of a protected class, (2) subject to an adverse employment action, (3) qualified for the position, and that (4) others, similarly situated and outside the protected class, were unaffected by the employer's adverse conduct.” *Town v Michigan Bell Telephone Co*, 455 Mich 688, 695; 568 NW2d 64 (1997). To be considered “similarly situated” to another employee, a plaintiff must prove that “all of the relevant aspects” of her employment situation were “nearly identical” to those with whom she compares herself. *Id.* at 699-700; *Smith v Goodwill Industries of West Michigan, Inc*, 243 Mich App 438, 448; 622 NW2d 337 (2000).

In this case, plaintiff failed to establish prima facie claims of gender or age discrimination under either failure to promote or disparate treatment theories because she did not show that

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

similarly situated employees were unaffected by defendant's allegedly adverse conduct. In particular, with regard to the specific promotional opportunities that plaintiff claimed were denied, she did not sufficiently identify characteristics that would allow the conclusion that she was similarly situated to any of the employees who were selected to fill the specified positions. See *Town, supra*; *Smith, supra*. Similarly, plaintiff did not set forth evidence that salary grade seven production supervisor positions existed or that such a position was filled by a similarly situated younger or male employee. Finally, plaintiff's disparate treatment claim was properly dismissed because she failed to establish that she was treated differently than a similarly situated male or younger employee.

In sum, plaintiff failed to establish a prima facie case of employment discrimination; therefore, summary disposition in defendant's favor was properly granted.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Mark J. Cavanagh

/s/ Roman S. Gribbs