

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 15-cv-02387-RPM

WELI A. FARAH,

Plaintiff,

v.

JBS USA, LLC d/b/a JBS SWIFT COMPANY,

Defendant.

ORDER DENYING MOTION FOR SUMMARY JUDGMENT

Weli Farah claims that he was fired from his job at the JBS meat processing plant in Greeley, Colorado, because he was born in that part of Somalia which declared itself an independent nation called Republic of Somaliland in 1991 and the decision to terminate his employment was made by Maxamed Xasan who was born in the remaining part of Somalia. There is enmity between these areas due to political, tribal¹ and cultural differences. Accordingly, Farah asserts national origin and racial discrimination in violation of Title VII and discriminatory treatment because of race in violation of 42 U.S.C. § 1981.

JBS moved for summary judgment of dismissal asserting that Farah violated company policy and that Xasan was not the decision maker.

There are many factual disputes. Farah became employed at the plant as a production worker in 2009. At the times relevant to this case he was a classroom trainer responsible for training production workers cutting meat on the time controlled production

¹Farah says that he is of the Isaaq clan and Xasan is a member of the Hawiye tribe.

line. Many workers came to the plant without English language ability. Farah speaks English, Somali and Swahili and a large part of his work was translating the instructions. Classroom trainers worked on the second floor above the line. Production trainers worked on the production line floor. Many languages were involved and there was a large turnover of employees with new workers needing training in their duties and for safety.

Brandon Sellers was the training manager supervising Farah and others until December, 2014. Xasan came to the Greeley plant in October, 2014, and fired Sellers in December. He replaced Sellers with Yulibeth Rocha in January, 2015. She was transferred from the JBS plant in Cactus, Texas. Kacem Andalib became the B Shift Human Resources Supervisor at the same time. Farah primarily worked the B shift.

While Sellers was the manager, Farah often called production workers up to his office. To keep the line moving the floor trainers filled in the position being worked by those called up by Farah. Most of those called up were women.

After receiving employee reports of suspicious conduct with these women, Andalib and Rocha called Farah in for an interview on March 11, 2015. They asked him about a particular employee who was with him frequently and for long periods of time. Farah explained that she helped him with Ethiopian employees whose language he did not speak. When the interview ended Andalib and Rocha told Farah he was suspended, based on their conclusion that he had misused company time and harassed female employees.

After interviewing other employees Andalib called Farah on March 13, 2015, to inform him his employment was terminated.

Farah claims that he was the only employee from Somaliland and that he was disliked by the Somali community in the plant. There is little evidentiary support for that but his credibility may not be discounted on summary judgment.

JBS contends that Xasan played no part in the firing decision and that the evidence clearly supports the violations of company policy.

The timing of events raises an inference that Xasan wanted Farah out of the plant because of his ethnicity and that Rocha and Andalib were aware of that and did his bidding. Xasan arrived in October, 2014. Sellers and Farah had a good relationship. Sellers was fired in December, 2014. Xasan brought Rocha and Andalib in January from outside the plant. Their investigation after the interview took two days.

It may be that Farah did violate company policy and did act inappropriately with some employees. His denials and explanations raise factual questions which will be evaluated by a jury.

The claim of race discrimination is questionable. He and Xasan are both African-American. The differences between them appear to be more ethnicity than race. What constitutes race under Title VII is evolving. The legal sufficiency of the claim will be considered at trial.

The defendant's motion for summary of dismissal is denied.

DATED: June 5, 2017

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior District Judge