

STATE OF MICHIGAN
COURT OF APPEALS

DEBRA HAYES,

Plaintiff-Appellant,

v

FLINT OSTEOPATHIC HOSPITAL-GENESYS
INCORPORATED,

Defendant-Appellee.

UNPUBLISHED
October 31, 2000

No. 215275
Genesee Circuit Court
LC No. 97-059987-CZ

Before: Griffin, P.J., and Cavanagh and Gage, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion for summary disposition under MCR 2.116(C)(10). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff brought this action under the Civil Rights Act, MCL 37.2101 *et seq.*; MSA 3.548(101) *et seq.*, alleging that she was denied promotions based on her race. The trial court granted defendant's motion for summary disposition under MCR 2.116(C)(10), finding that there was no genuine issue of material fact to support her claim.

In determining whether summary disposition is appropriate, courts must consider the evidence in a light most favorable to the nonmoving party, and give that party the benefit of any reasonable doubt. Summary disposition is only appropriate where the claim would be insupportable at trial because of an incurable deficiency. *Lytle v Malady (On Rehearing)*, 458 Mich 153, 176; 579 NW2d 906 (1998).

Plaintiff has the initial burden to prove a prima facie case of discrimination. If plaintiff succeeds in proving a prima facie case, the burden shifts to defendant to articulate a legitimate, nondiscriminatory reason for its actions. If defendant does so, plaintiff must prove by a preponderance of the evidence that the reasons proffered were not the true reasons, but were a pretext for discrimination. *Town v Michigan Bell Telephone Co*, 455 Mich 688; 568 NW2d 64 (1997). Plaintiff must present sufficient evidence to permit a reasonable juror to find that for the same or similar conduct she was treated differently from a similarly situated white employee. *Lytle, supra*, 181.

Plaintiff failed to establish a prima facie case of discrimination. She presented no evidence to support her assertion that she was qualified for the promotions that she sought, and she did not present any evidence that would support a finding that adverse employment actions were taken against her based on race rather than work performance. There was no genuine issue of fact established, and the trial court properly granted summary disposition to defendant.

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ Hilda R. Gage