

7.8: HARRIS v. FORKLIFT SYSTEMS, INC.

The following U.S. Supreme Court case provides some guidance on the Court's interpretation of the law regarding sexual harassment in the workplace.

SUPREME COURT OF THE UNITED STATES

HARRIS v. FORKLIFT SYSTEMS, INC.

510 U.S. 17 (1993)

(Case Syllabus edited by the Author)

Petitioner Harris sued her former employer, respondent Forklift Systems, Inc., claiming that the conduct of Forklift's president toward her constituted "abusive work environment" harassment because of her gender in violation of Title VII of the Civil Rights Act of 1964. Charles Hardy was Forklift's president.

Hardy told Harris on several occasions, in the presence of other employees, "You're a woman, what do you know," and "We need a man as the rental manager"; at least once, he told her she was "a dumb ass woman." Again, in front of others, he suggested that the two of them "go to the Holiday Inn to negotiate [Harris'] raise." Hardy occasionally asked Harris and other female employees to get coins from his front pants pocket. He threw objects on the ground in front of Harris and other women and asked them to pick the objects up. He made sexual innuendos about Harris' and other women's clothing. In mid-August 1987, Harris complained to Hardy about his conduct. Hardy said he was surprised that Harris was offended, claimed he was only joking, and apologized. He also promised he would stop, and based on this assurance Harris stayed on the job. But in early September, Hardy began anew: While Harris was arranging a deal with one of Forklift's customers, he asked her, again in front of other employees, "What did you do, promise the guy . . . some [sex] Saturday night?" On October 1, Harris collected her paycheck and quit.

Declaring this to be "a close case," the District Court found, among other things, that Forklift's president often insulted Harris because of her gender and often made her the target of unwanted sexual innuendos. However, the court also found that while some of Hardy's comments offended Harris, and would offend a reasonable woman, the comments were not

"so severe as to be expected to seriously affect [Harris'] psychological well being. A reasonable woman manager under like circumstances would have been offended by Hardy, but his conduct would not have risen to the level of interfering with that person's work performance. the court concluded that the comments in question did not create an abusive environment because they were not "so severe as to . . . seriously affect [Harris'] psychological well being" or lead her to "suffe[r] injury."

The Court of Appeals affirmed.

Held:

To be actionable as "abusive work environment" harassment, conduct need not "seriously affect [an employee's] psychological well being" or lead the plaintiff to "suffe[r] injury."

(a) The applicable standard, here reaffirmed, is stated in *Meritor Savings Bank v. Vinson*, 477 U.S. 57: Title VII is violated when the workplace is permeated with discriminatory behavior that is sufficiently severe or pervasive to create a discriminatorily hostile or abusive working environment. This standard requires an objectively hostile or abusive environment— one that a reasonable person would find hostile or abusive—as well as the victim's subjective perception that the environment is abusive.

(b) Whether an environment is "hostile" or "abusive" can be determined only by looking at all the circumstances, which may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance. The effect on the employee's psychological well being is relevant in determining whether the plaintiff actually found the environment abusive. But while psychological harm, like any other relevant factor, may be taken into account, no single factor is required.

(c) Reversal and remand are required because the District Court's erroneous application of the incorrect legal standard may well have influenced its ultimate conclusion that the work environment was not intimidating or abusive to Harris, especially given that the court found this to be a "close case."

976 F. 2d 733, reversed and remanded.

O'Connor, J., delivered the opinion for a unanimous Court. Scalia, J., and Ginsburg, J., filed concurring opinions.

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