2 min read
May 23, 2012

Recently, the United States Court of Appeals for the Seventh Circuit held that an employer bank did not unlawfully discriminate against a female employee based on her husband's immigration status.

In *Cortezano v. Salin Bank & Trust Company*, the employee alleged national-origin discrimination under Title VII and emotional distress, defamation, and blacklisting, all of which, she claimed, was based on her marriage to a Mexican citizen whose presence in the United States was unauthorized.

During the employee's tenure with the bank, she assisted her husband in opening two accounts — a personal account and a business account for his company. Ultimately, the employee's husband's business failed and he returned to Mexico to sort out his citizenship status. Around that time, the employee informed her supervisor about her husband's unauthorized status, and the supervisor reported this to the bank's security officer. In an initial meeting with the employee, the security officer surmised that the employee's husband must have used fraudulent documents to open the bank accounts, and, as such, he informed the employee that he would file an internal suspicious activity report.

Following a scheduled meeting with bank representatives, at which the employee's attorney was denied admittance, the employee was terminated, which prompted the employee to file suit. The bank sought to dismiss all of the employee's claims and ultimately prevailed by way of a motion. The employee appealed.

The United States Court of Appeals for the Seventh Circuit affirmed the district court in all regards. The Court held that the bank terminated the employee because of her husband's immigration status, not because of his race or national origin. The Seventh Circuit further held that even assuming that Title VII applies to discrimination against one's spouse, the employee's claim fell short because it was based on the employee's husband's alienage, which is not protected by the statute.

In reaching this determination, the Seventh Circuit acknowledged that the United States Supreme Court in *Espinoza v. Farah Mfg. Co*, 414 U.S. 86 (1973) previously concluded that the term "national origin" was limited to "the country from which you or your forebears came" and, as such, national origin discrimination as defined in Title VII encompasses discrimination based on one's ancestry but not discrimination based on citizenship or immigration status. Additionally, the Seventh Circuit acknowledged that 8 U.S.C. § 1324b, which pertains to Prohibition of Discrimination Based on National Origin or Citizenship Status, clearly excludes unauthorized aliens from its coverage.

In sum, the Seventh Circuit held that any discrimination suffered by the employee was not the result of her marriage to a Mexican, but rather the result of her marriage to an unauthorized alien, which is not a protected classification under Title VII.

Hinshaw & Culbertson LLP is a U.S.-based law firm with offices nationwide. The firm's national reputation spans the insurance industry, the financial services sector, professional services, and other highly regulated industries. Hinshaw provides holistic legal solutions—from litigation and dispute resolution, and business advisory and transactional services, to regulatory compliance—for clients of all sizes. Visit www.hinshawlaw.com for more information and follow @Hinshaw on LinkedIn and X.

Topics

Title VII, National Origin Discrimination