

Seventh Circuit Rejects Nurses' Racial Discrimination Lawsuit Based on Monkey References

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Four African-American nurses worked at a jail facility and asserted that they experienced racial discrimination that caused them to resign. The nurses alleged that: (1) there were excerpts from the book, *The One Minute Manager Meets the Monkey*, with notes in the margins, found in a former administrator's office; (2) comments about "monkeys" were made over the jail intercom; (3) a jail employee wore a t-shirt depicting a confederate flag; (4) a jail doctor referred to an inmate named Cole as "black as coal" or "black ass coal"; and (5) their shifts were rotated on a monthly basis. Fed up with the alleged discriminatory treatment, the nurses quit and sued the jail, claiming that they were subject to a hostile work environment. The U.S. Court of Appeals for the Seventh Circuit held that the alleged conduct did not create actionable discrimination. In so doing, the court explained that to establish a "hostile work environment," the nurses needed to show that their work environment was both objectively and subjectively offensive. The court determined that excerpts from the book found in the administrator's office were not something that a reasonable person would find offensive, as the book was plainly directed at management concerns and the metaphor was unlikely to cause confusion. Further, the court found no evidence that the alleged references to monkeys over the intercom were directed at nurses or a subset of them. The court determined that the observance of an employee wearing a shirt that contained a confederate flag as well as the doctor's "black as coal" and "black ass coal" remarks were isolated incidents that were insufficiently severe to support a hostile work environment claim. The court further found that the jail's policy of rotating nurse shifts constituted a legitimate response to the tension between employees in different shifts. While this case demonstrates that not all conduct an employee finds offensive will support a hostile work environment claim, employers should enforce comprehensive policies that prohibit all forms of discrimination and harassment to ensure that their employees are treated respectfully.

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