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Recent Developments: Harris v. Forklift Systems, Inc.: Psychological Harm Not Required for Title VII Sexual Harassment Claim Brought Under "Abusive Work Environment" Theory

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Harris v. Forklift Systems, Inc.:

PSYCHOLOGICAL HARM NOT REQUIRED FOR TITLE VII SEXUAL HARASSMENT CLAIM BROUGHT UNDER "ABUSIVE WORK ENVIRONMENT" THEORY.

In order to support an "abusive work environment" claim for sexual harassment, a plaintiff need not show that the conduct in question affected the plaintiff's psychological well-being or caused the plaintiff to suffer injury. *Harris v. Forklift Systems, Inc.*, 114 S. Ct. 367 (1993). In so holding, the Supreme Court corrected a misinterpretation by the lower federal courts of the standard to be applied to this type of sexual harassment claim.

Teresa Harris, a female manager at Forklift Systems, Inc., was regularly subjected to sexually suggestive and offensive comments by Charles Hardy, Forklift's president. Despite Harris' complaints, Hardy's conduct continued. After two years of employment, Harris quit her job at Forklift and filed suit in the United States District Court for the Middle District of Tennessee for sexual harassment under Title VII of the Civil Rights Act of 1964. Harris alleged that Hardy's conduct created an abusive work environment.

Although the district court found this to be a "close case", it denied Harris' claim. The court focused on the absence of harm to Harris' psychological well-being and found that Hardy's comments, though offensive, were not so severe as to cause injury. Harris appealed and in an unpublished opinion, the United States Court of Appeals for the Sixth Circuit affirmed. The United States Supreme Court granted certiorari to resolve the inconsistent approaches to such claims among the lower federal courts.

The issue before the Supreme Court was whether Ms. Harris was required to demonstrate that the conduct in question seriously affected her "psychological well-being" or caused her to "suffer an injury." The Court first emphasized that Title VII is violated when the discriminatory conduct is "'sufficiently severe or pervasive [as] to alter the conditions of the victim's employment and create an abusive working environment.'" *Id.* at 370 (quoting *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986)). The Court recognized that while Title VII does not proscribe merely offensive conduct, neither does it require the plaintiff to demonstrate tangible psychological injury. *Id.* An abusive work environment exists where both a reasonable person would perceive the working environment as hostile, and the victim subjectively perceives it as such. *Id.*

However, the Court noted that "Title VII comes into play before the harassing conduct leads to a nervous breakdown." *Id.* An abusive work environment can detract from an employees performance without affecting the employee's psychological well-being. *Id.* at 370-71. Thus, the district court erred by relying on the absence of injury to Harris' psychological well-being as determinative of her claim. The Court concluded that the district court had misinterpreted *Meritor*, a case where the harassing conduct was so severe that the emotional and psychological stability of the minority workers was virtually destroyed. *Id.* Based on the facts of *Meritor*, the district court erroneously concluded that psychological harm was a prerequisite to an abusive work environment claim.

The Court also pointed out that the district court's conclusion was not supported by the language of Title VII. According to the Court, "[s]o long as the environment would reasonably be per-

ceived, and is perceived, as hostile or abusive . . . there is no need for it also to be psychologically injurious." *Id.* Determining that the indices of an abusive work environment claim are case specific, the Court listed several factors to consider including the frequency of the discriminatory conduct, its severity, whether it was physically threatening or humiliating, and whether it unreasonably interfered with an employee's work performance. *Id.*

Although the district court found that Forklift's work environment was not abusive and Harris was not subjectively affected by the work environment, the Court felt that the district court's reliance on the incorrect standard may have influenced its determination. *Id.* This was supported by the fact that the district court reached this conclusion only after finding that Harris suffered no psychological injury. Therefore, the Court remanded the case for further proceedings consistent with its opinion.

Justice Scalia, in a concurring opinion, bemoaned the vague "abusiveness" standard and the potential litigation it would produce especially since a plaintiff need not demonstrate any injury. *Id.* at 372. Nonetheless, Scalia admitted that due to the vague statutory language of Title VII, the majority's standard was the only apparent alternative. Justice Ginsburg, in a separate concurring opinion, asserted that the inquiry should focus on whether the discriminatory conduct unreasonably interfered with the plaintiff's ability to perform his or her job. *Id.*

In *Harris*, the Supreme Court corrected a misinterpretation of the *Meritor* standard by the federal courts in abusive work environment cases. No longer can a court require a showing of psychological harm as a prerequisite to a claim for sexual harassment. By so holding, the Court has removed a major obstacle to plaintiffs seeking redress for such claims. Thus, Harris advances one of Title VII's main purposes: to prevent discrimination on the basis of sex with respect to the terms and conditions of employment.

- Nicholas C. DeMattheis Jr.

Florence County School Dist. Four v. Carter:

PARENTS MAY BE REIMBURSED FOR THE COST OF A PRIVATE SCHOOL WHEN A PUBLIC SCHOOL FAILS TO PROVIDE AN ADEQUATE EDUCATION UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Rejecting a school district's claims that the selected private school was not approved by the state and that reimbursement would be too burdensome, the Supreme Court, in a unanimous decision, held that a child's parents are not barred from reimbursement because of non-compliance with the Individuals with Disabilities Act ("IDEA"), 84 Stat. 175, *as amended*, 20 U.S.C. § 1401(a)(18) (1988 & Supp. IV). *Florence County School Dist. Four v. Carter*, 114 S. Ct. 361 (1993). Consequently, the Court declared that 20 U.S.C. § 1401(a)(18) does not apply to placements of children in private schools by their parents.

Shannon Carter was classified as learning disabled in 1985 while attending a school as a ninth grade student in Florence County School District Four. Shannon's parents ("the Carters") met with school officials to develop an individualized education program ("IEP"), as required under IDEA. Shannon's parents were dissatisfied with the IEP that was formulated and requested a hearing to challenge its appropriateness. Authorities on both the local and state levels rejected the parents' claim and concluded that the IEP was adequate. In September 1985, the Carters, without state approval, enrolled Shannon at the Trident Academy, a private school, from which she ultimately graduated in the spring of 1988.

The Carters filed suit in July 1986, claiming that the school district breached its duty under 20 U.S.C. § 1401(a)(18) by failing to provide Shannon with a "'free appropriate public education.'" *Id.* at 364 (quoting 20 U.S.C. § 1401(a)(18) (1988 & Supp. IV)). Shannon's parents also sought re-