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**Goodman v. Lukens Steel Co.:
PERSONAL INJURY STATUTE OF
LIMITATIONS NOW APPLIED TO
TITLE VII CLAIMS BROUGHT IN
PENNSYLVANIA**

In *Goodman v. Lukens Steel Co.*, ___U.S.____, 107 S. Ct. 2617 (1987), the United States Supreme Court ruled that the Pennsylvania personal injury statute of limitations should be applied to all claims in that state arising under Title VII of the 1964 Civil Rights Act. The Court further ruled that the personal injury two year statute of limitations should be applied retroactively to all prior cases where there was no clear precedent to guide the parties to the suit.

In the case at bar, black employees of a Pennsylvania steel company brought a class action suit against their employer, Lukens Steel, and their collective bargaining agents, the United Steelworkers of America, and two of their local unions. The employees alleged violations of both Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. The district court ruled that the steel company had violated Title VII by discharging employees during their probationary period, tolerating racial harassment by employees, and using certain proscribed practices involving initial job assignments, promotions, and decisions on incentive pay. By these same actions the district court also found that the company had violated 42 U.S.C. § 1981. Similarly, the court found that the unions also violated both statutes by discriminating on racial grounds in failing to challenge discriminatory discharges of probationary employees, failure and refusal to assert racial discrimination as a ground for grievances, and toleration and tacit encouragement of racial harassment. In assessing damages, the court ruled that the Pennsylvania six year statute of limitations governing contract claims applied to § 1981 claims. Thus, in determining damages, the court would consider all violations that occurred in the six year period prior to the institution of suit. Lukens Steel appealed on the grounds that the district court applied the wrong statute of limitations, and the unions based their appeal on a claim that Title VII and § 1981 were erroneously applied.

The Supreme Court agreed that the six year statute of limitations was not the correct statute to apply. Relying on *Wilson v. Garcia*, 471 U.S. 261 (1985), the Court held that since § 1981 does not contain a statute of limitations, federal courts should select the most appropriate or analogous state statute of limitations. The district court held that the most analogous statute

was the one applicable to suits for interference with contractual rights, a six year statute of limitations. Lukens Steel argued, and the Supreme Court agreed, that § 1981 has a much broader focus than contractual rights, because "[t]he section speaks not only of personal rights to contract, but personal rights to sue, to testify, and to equal rights under all laws for the security of persons and property; and all persons are to be subject to like punishments, taxes and burdens of every kind." *Goodman*, 107 S. Ct. at 2621. Thus, § 1981 is part of a law which considers racial discrimination an injury to the fundamental rights of an individual, and the proper statute of limitations to apply is the Pennsylvania two year statute of limitations that governs personal injury claims.

The plaintiff argued that the statute should not be retroactively applied because prior Third Circuit decisions held that the proper statute was six years. However, the Court felt that retroactivity was appropriate in this case because at the time of the filing of this suit, 1973, "there had been no authoritative specification of which statute of limitations applied to an employee's § 1981 claims, and hence no clear precedent on which petitioner could have relied when they filed their complaint in this case." *Id.* at 2622. It was not until 1977, in *Myers v. Pennypack Woods Home Ownership Association*, 559 F.2d 894 (1977), that the Third Circuit adopted the six year statute of limitations.

The Court also refused to overturn the lower court's finding that the unions illegally discriminated against the plaintiffs. Although the unions claim that the trial court erred in holding that the union violated Title VII and § 1981 by passively not opposing an employer's racially discriminatory employment practices, the Court did not address this argument. Rather, it cited the lower court finding that there was more than mere passivity on the part of the unions, and announced that there is an affirmative duty on the part of the unions to challenge the employer when instances of alleged racial discrimination arise. Based on this decision and the fact that there was more than just mere acquiescence on the part of the unions, the Court rejected the unions' appeal.

The Supreme Court's finding in this case is significant because the statute of limitations governing personal injury claims in Pennsylvania has been reduced from six years to two and the Court has announced that it should be applied retroactively in cases filed before a clear precedent existed to guide the parties. In

addition, the Court has also restated that unions have an affirmative duty to challenge discriminatory practices by employers whenever they arise.

—David Carey



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