Recent Developments: St. Mary's Honor Center v. Hicks: Title VII Does Not Compel Judgment for Plaintiff Merely Because the Trier of Fact Rejects Defendant's Reasons for Adverse Employment Decisions

Kimberley S. Wright Jones

Follow this and additional works at: http://scholarworks.law.ubalt.edu/lf

Part of the Law Commons

Recommended Citation
Available at: http://scholarworks.law.ubalt.edu/lf/vol24/iss2/9

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.
Last term, the Supreme Court provided a preview of its analysis of disparate treatment cases when it decided St. Mary's Honor Ctr. v. Hicks, 113 S. Ct. 2742 (1993). In a technicality based opinion delivered by Justice Scalia, the Court redefined the meaning of pretext as it had been traditionally used in employment discrimination litigation. Instead of merely demonstrating the falsity of the employer’s proffered reasons for the adverse employment action, plaintiffs must now prove the employer’s actions were “a pretext for discrimination.” Id. at 2752.

In 1978, Respondent Melvin Hicks, an African-American, was hired as a correctional officer by Petitioner, St. Mary’s Honor Center (“St. Mary’s”). In 1980, he was promoted to a supervisory position as a shift commander. In 1984, managerial changes were made. In the course of that year, Hicks was reprimanded, suspended, demoted and ultimately discharged. Hicks brought suit in the United States District Court for the Eastern District of Missouri, alleging Title VII violations by St. Mary’s for demoting and discharging him on the basis of race. . . .” St. Mary’s Honor Ctr., 113 S. Ct. 2742, 2747 (citing Burdine, 450 U.S. at 253). Most important is the requirement that “[t]he plaintiff bear the ultimate burden of persuading the trier of fact that the [employer] intentionally discriminated on the basis of race. . . .” St. Mary’s Honor Ctr., 113 S. Ct. 2742, 2747 (citing Burdine, 450 U.S. at 253).

Next, the Court explained that judgments as a matter of law are only awarded to plaintiffs if, “[a]t the close of the defendant’s case, . . . (1) any rational person would have to find the existence of facts constituting a prima facie case, and (2) the defendant has failed to meet its burden of production. . . .” Id. at 2748. See Fed. R. Civ. P. 50(a)(1) or 52(c). The Court disagreed with the Eighth Circuit’s holding that a mere rejection of the employer’s justifications compelled judgment for the plaintiff. To do so would violate Federal Rule of Evidence 301 and a Title VII requirement that the plaintiff at all times bears the burden of persuasion. Conversely, the finding that Hicks was not entitled to judgment as a matter of law was based on St. Mary’s claim that the employee had been dismissed due to “the severity and the accumulation of rules violations committed by respondent. . . .” Id. at 2747 (citing Hicks v. St. Mary’s Honor Ctr., 756 F. Supp.
1244, 1250 (1991)). The Court’s primary point of contention was that the mere finding of pretext would require a directed verdict for plaintiffs if such a high degree of proof was placed upon the McDonnell Douglas prima facie case. As a preventative measure, the Court quickly denied that the level of proof required to establish a prima facie case and that necessary to support a directed verdict was on equal footing. As a result, the Court found neither statutory, logical nor precedential basis for the respondent’s claim. Id. at 2751.

The most controversial segment of the Court’s ruling was its “pretext-plus” approach to determining the ultimate issue of intentional discrimination. Contrary to the respondent’s claim that Title VII plaintiffs need only prove pretext to prevail, Scalia insisted that Burdine requires that the plaintiff show both that the employer’s justifications were false and that discrimination was the true reason for the demotion and dismissal. Id. at 2752. The Court then noted that its decision in United States Postal Serv. Bd. of Governors v. Aikens, 460 U.S. 711, 714 (1983), dispelled any “doubt” in Burdine regarding the plaintiff’s burden of persuasion. St. Mary’s Honor Ctr. at 1253. Despite Hicks’ showing that St. Mary’s justifications for his dismissal were untrue, the Supreme Court found that he failed to meet his burden of persuasion by showing invidious discrimination motivated the employer’s decision.

Justice Souter delivered the dissenting opinion with whom Justices White, Blackmun and Stevens joined. The dissent chided the majority’s misinterpretation of the McDonnell Douglas/Burdine framework by insisting that a pretext-plus approach was inconsistent with the Court’s prior holdings. Instead, the dissent asserted that the plaintiff may meet his burden of persuasion “either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer’s proffered explanation is unworthy of credence.” Id. at 2760. (emphasis added) (quoting Burdine, 450 U.S. at 256). “Unfairness and impracticality” were the dissent’s major criticisms of the majority opinion. Id. at 2763. However, the dissent was also concerned with the Court’s failure to limit the scope of the factual determination to the credibility of the employer’s justifications.

The dissent believed the Court’s requirement of additional proof would, more often than not, result in summary judgment for employers. Id. at 2762. By the same token, the dissent feared that the end result would be a more complicated and expensive pretrial discovery process, longer trials, overall delays in Title VII litigation, and diminished judicial economy. Id. at 2763. The dissent was equally disturbed that the Court would hand down a ruling so patently favorable to employers who present “false evidence in a court of law.” Id. at 2763. Consequently, the dissent believed victims of discrimination would be discouraged from filing claims, and those who did would waste valuable time and money on cases in which they have a meager chance of winning.

The St. Mary’s opinion is significant in that it reinforces the requirement that an employer need only provide a non-discriminatory justification for the adverse employment decision to meet its burden of production. At that point in the trial, the McDonnell Douglas/Burdine inference of discrimination becomes irrelevant, and the credibility of the proffered reasons will not automatically compel a judgment for the plaintiff. Instead, the plaintiff must carry the ultimate burden of persuasion by: 1) persuading the trier of fact that the employer’s justifications for the adverse employment action were untrue and discriminatory; and 2) persuading the trier of fact that the plaintiff has been the victim of intentional discrimination. Finally, the trier of fact must decide the ultimate question of whether the employer intentionally discriminated against the employee. As a result, the decision will turn not on the truth of the employer’s justifications, but on the plaintiff’s ability to show that the employer intentionally discriminated on the basis of race, color, religion, sex or national origin. In effect, the burden of production for employers remains minimal and the burden of persuasion for employees is more onerous -- making discrimination more difficult to prove.

- Kimberley S. Wright Jones