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Insights

Recent Seventh Circuit Title VII Sex Discrimination Case Offers Reminders for Employers About the Need for Consistency in Employment Practices and Decisions

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Litigation rarely goes to trial and employment law is no exception. However, a recent opinion from the Seventh Circuit Court of Appeals in *Joll v. Valparaiso Community Schools* held that a plaintiff's sex discrimination case, brought under Title VII of the Civil Rights Act of 1964 ("Title VII") survived summary judgment and could advance to trial.**1** This case provides several reminders for employers as they navigate employment decisions, particularly hiring decisions.

Background

In this case, the plaintiff, Molly Joll ("Joll") applied for two assistant coaching positions at Valparaiso High School, one for the girls' cross-county team and one for the boys' cross-country team. However, even though she was well-qualified, she was not selected for either position and in both instances a younger male was hired.

Joll alleged that during the interview process for both positions, Valparaiso Community Schools (the "School") treated her differently than the other male applicants. For example, Joll claimed that in the male applicants' interviews they "talked shop" whereas Joll "had to talk parenting", having to convince her interviewers that "she was willing to devote the necessary time to coaching, notwithstanding her family responsibilities."**2** In addition, Joll presented evidence that following her interviews, the School checked Joll's references but did not check the references for the younger male applicants.

Additionally, in each instance the School provided different reasons for its decision not to select Joll:

- After applying for the coaching position with the girls' cross-country team, the School informed Joll that it was hiring the younger, male coach because he had more experience coaching at the high school level.
    - The Court noted that while this is true, Joll had much more experience as a coach and runner. Additionally, the Court noted that there was no discernible difference between coaching middle school and coaching high school.
    - The Court also noted that the successful male applicant had taken time off for family reasons, just as Joll had, however, his interview did not revolve around familial responsibilities while Joll's did.
- After applying for the position with the boys' cross-country team the School informed Joll that she was not selected because the younger male applicant had more rapport with the boys.
    - At a later time, the Athletic Director explained that finding someone who taught in the building was another important factor along with more recent coaching experience.

- The Court noted that Joll had much more extensive experience than the successful applicant and the rapport and location factors were not taken into account in her prior application.

Joll initiated her lawsuit under Title VII and the Age Discrimination in Employment Act. The district court granted summary judgment for the School, concluding that Joll had not offered enough evidence of either form of discrimination to present the case to a jury. Joll then appealed.[3]

Joll's Evidence Was Enough to Survive Summary Judgment

The Seventh Circuit Court of Appeals reversed the district court's grant of summary judgment to the School finding that it "erred by doing what we have repeatedly said a court should not: 'asking whether any particular piece of evidence proves the case by itself,' rather than aggregating the evidence 'to find an overall likelihood of discrimination.'"[4] Instead, the Court found that Joll offered enough evidence that would allow a reasonable jury to find that the School used hiring procedures that favored male applicants, "applied sex-role stereotypes during the interview process, and manipulated the criteria for hiring in ways that were inconsistent except that they always favored the male applicants."[5]

In a Title VII sex discrimination case, plaintiffs can meet their evidentiary burden on summary judgment with circumstantial evidence of intentional discrimination, including: "ambiguous or suggestive comments or conduct; better treatment of people similar situated but for the protected characteristic; and dishonest employer justifications for disparate treatment."[6]

Here, Joll's evidence included some of each, and the Court found that her evidence, "[t]aken together … would permit a reasonable jury to infer 'an overall likelihood of discrimination' that merits trial, not summary judgment."[7] For example, the Court determined that the interview process served as evidence that the School was engaging in sex-role stereotypes by focusing on Joll's obligations as a mother when it did not do the same for a similar male candidate who also took time off for family reasons. In addition, the Court noted that the School did not check the male applicants' references as it did for Joll, from which a jury could infer that the School was treating male applicants more favorably. Additionally, the Court stated that a jury could reasonably infer that the School's varying reasons for not selecting Joll were dishonest employer justifications for disparate treatment.

The Court's Holding

Ultimately, the Court found that Joll met her burden on summary judgment and presented sufficient evidence, in the aggregate, that would allow a reasonably jury to infer that the School intentionally discriminated against her. The Court found that Joll demonstrated that there was "at least one reasonable way to tell the story in favor of [her] claim[.]"

What Can Employers Learn from this Case?

1. Employers need to ensure that hiring and employment practices are consistent and applied uniformly to all candidates and employees, with deviation only as required by law (i.e., providing a reasonable accommodation when required under the Americans with Disabilities Act or other equal employment opportunity laws).

2. Employers should have a strong understanding of what they are looking for in job candidates prior to beginning the hiring process, which must be non-discriminatory, and then document those desired characteristics.

3. If employers decide to inform applicants of the reason why they were not selected for a position, the reason should be based on the objective standards determined before the hiring process and should be consistent with similar positions.

If you have questions about your hiring process or other employment law issues, Krieg DeVault LLP's Labor and Employment team is here to help you. We review job descriptions, evaluate interview processes, offer training for individuals involved in the interview process, and perform other compliance-related activities, such as reviewing and updating employee handbooks, policies, and training materials. Please contact any member of our **Labor and Employment team** for more information.

Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.

[1] Joll v. Valparaiso Community Schools, 953 F. 3d 923 (7th Cir. 2020).

[2] Id. at 926-27.

[3] Joll's Title VII claim was the sole issue on appeal.

[4] Id. at 924 (quoting Ortiz v. Werner Enterprises, Inc., 834 F.3d 760, 763, 765 (7th Cir. 2016)).

[5] Id.

[6] Id. at 929

[7] Id. (quoting Ortiz, 834 F.3d at 763).