

LITIGATION

Hiring bias suit survives Charles County challenge

Black woman is suing sheriff's office

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A black woman may continue with her federal race and gender discrimination lawsuit against the Charles County Sheriff's Office, a magistrate judge has ruled.

In an unpublished opinion released last week, U.S. Magistrate Judge William Connelly denied Sheriff Frederick E. Davis' motion for summary judgment.

Connelly wrote that Pernevelyn Coggins established a prima facie case that the sheriff's of-

fice discriminated against her by not hiring her as a systems administrator, and that there are real, factual disagreements about whether the office had a reason for not hiring Coggins that was not based on race or gender.

A jury could find that Coggins was more qualified than the white man who got the job, Maxym Kuminov, and that employees involved in the hiring process manufactured claims that Coggins had an abrasive personality, Connelly held.

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"Plaintiff claims, in every measure, she was more qualified for the position than Mr. Kuminov," Connelly wrote. "The striking disparity in qualifications coupled with the selection of Mr. Kuminov could leave a jury to find as pretextual the Sheriff's nondiscriminatory reasons."

Coggins' attorney, Jonathan C. Puth of Webster Fradrickson & Brackshaw in Washington, D.C., praised the decision.

"This is only the first step, but it's a critical one, obviously," he said. "Ms. Coggins presents a powerful discrimination case and we look forward to trying it before a jury."

Gary Charles May, an attorney for the sheriff's office, did not return a call for comment.

According to the opinion, Coggins applied for the systems administrator job in November 2002. The interview panel ranked her as its top candidate.

The sheriff's office then began doing a background investigation on Coggins. Two staff members told their supervisors, and later said in depositions, that Coggins was difficult and argumentative, complaining about the amount of paperwork she had to do and being uncooperative about scheduling a time for her background interview. In depositions, Coggins denied the allegations, according to the opinion.

Employees also testified that Coggins could not produce proof that she was certified in UNIX, though Coggins said she hadn't produced her UNIX certificate because she was never asked.

In March 2003, Coggins was sent a letter notifying her that the sheriff's office had selected a "better qualified" applicant for the job. Coggins has a college degree, a master's degree in library science and a long employment history, while Kuminov had an associate's degree and one job reference, according to the opinion.

Coggins immediately filed a complaint with the U.S. Equal Employment Opportunity Commission, which forwarded it to the Department of Justice. In November 2004, the DOJ gave Coggins

the right to sue for discrimination.

The sheriff's office moved for summary judgment, which Connelly denied on May 31. The opinion was posted on the court's Web site on June 21.

Dispute over pretext

Connelly wrote that Coggins established a prima facie case for discrimination by showing she is a member of a class protected under the Civil Rights Act of 1964, applied for the systems administrator job, was qualified for the job and was rejected in favor of someone outside the protected class.

He wrote that, although the sheriff's office gave legitimate, nondiscriminatory reasons for not hiring Coggins, it could not prove that those reasons were not pretexts for discrimination.

Coggins had five claims about why the

sheriff's reasons for rejecting her were pretextual: the background investigation report was a "sham"; she was more qualified than Kuminov; the hiring process was different for the systems administrator position than for other jobs; employees manufactured claims about her personality problems; and there was

a double standard for her.

Connelly found that a jury could agree with her claims about qualifications and personality.

He wrote that no one asked Coggins for copies of her UNIX certification, and that no one at the sheriff's office seemed to know whose responsibility it was to do so. He also pointed out that Kuminov, the candidate who did get the job, did not submit copies of his computer certifications.

"Based on the evidence, the inability of the Sheriff's Office to verify Ms. Coggins' UNIX background appears attributable to the Sheriff's Office and not Ms. Coggins," Connelly wrote.

On the personality question, Connelly pointed out that Coggins had good recommendations from her references and that the interview panel was especially impressed with her personality. The "stark contrast" between the experiences of the panel and those of the two employees who had problems with Coggins — in addition to the fact that Coggins contests the employees' testimony — "raises genuine issues of material fact," he wrote.

