

November 11, 2010

Judge sides with prosecutor in 'gringa' case

Jose Pagliery

A Miami-Dade circuit judge has tossed out a reverse discrimination claim made by a former state attorney's office supervisor who was called "gringa" by her boss.

The Anglo administrator argued the term was offensive and showed unfair treatment, but the agency maintained her Hispanic boss used it as a term of endearment.

Miami-Dade Circuit Judge Barbara Areces sided with the prosecutor's office Nov. 3, granting a motion for summary judgment in its favor and dismissing the case with prejudice. Although the order does not detail why she ruled for the agency, stating only it "met its burden," attorneys on both sides say it was because Areces didn't find the term offensive.

The office, with a diverse group of prosecutors, may count the decision as a nod to its heterogeneous work force and culturally sensitive office policies.

But Weston attorney G. Ware Cornell Jr., who represents fired employee Deborah Gomez, is seeking a rehearing, arguing a jury should determine whether the term is as endearing as the agency claims.

"When the supervisor who was involved in the termination admitted calling my client repeatedly a 'gringa,' that slur at least created an issue of fact as to whether or not she meant it in a derogatory way," Cornell said Tuesday.

During her 19 years at the state attorney's office, Gomez, who uses her ex-husband's last name, rose from secretary to unit manager, leading a team of support staff for prosecutors handling misdemeanors.

She was an exemplary employee until her final years, according to the agency's employment attorney, Angelo Filippi of Fort Lauderdale. She was fired in 2006 when her team endangered prosecutions by failing to ensure more than a dozen subpoenas were issued.

Gomez filed a claim with the Florida Commission on Human Relations in 2007, which issued no finding. She filed her lawsuit in 2008, claiming her boss, Elena Reyes, treated Hispanic staff members more favorably. When mistakes would occur, fellow Hispanic supervisors were often let off the hook, while non-Hispanics were frequently written up.

Filippi said Gomez's case was made shaky because she was promoted ahead of fellow Hispanic employees.

"She was treated more favorably than those outside of her protected class," said Filippi, an attorney with Kelley Kronenberg Gilmartin Fichtel Wander Bamdas Eskalyo & Dunbrack.

But using the word "gringa" — the Spanish female version of "gringo" — was insulting, Cornell said.

During a deposition by Filippi, Gomez said Reyes often called her "gringa" during meetings in front of other supervisors, and the term was used only for her. Cornell said he's not sure whether Gomez ever filed complaints about her boss's use of the word.

Gomez contends the term is derogatory. Reyes insists it was used in a friendly manner.

It's a term the American Heritage dictionary states is "usually a term of contempt" used in Latin America to describe North American and British foreigners. The Merriam-Webster dictionary similarly defines the term as "often disparaging."

The agency's attorney conceded that point but said Reyes never meant it that way.

"There could be a context in which it's used in a derogatory manner. But you have to look at the context. You can't look at the term itself," he said.

An ejected workplace discrimination case marks a win for the Miami-Dade state attorney's office, which fired a supervisor in 2006 and had to defend itself against a reverse discrimination claim.

Deborah Gomez, who is Anglo but still uses her ex-husband's name, claimed she was treated unfairly at work. Her former boss, Elena Reyes, often would call her "gringa" during staff meetings. It's a term Reyes claims was used in an endearing manner, and the office argued Gomez was not treated differently.

Miami-Dade Judge Barbara Areces sided with the agency, granting a motion for summary judgment in its favor.

But Gomez's attorney, G. Ware Cornell Jr., says a jury, not Areces, should determine whether the term is as endearing as the agency claims.

When an ex-employee sued over being called 'gringa,' Miami-Dade Judge Barbara Areces sided with the state attorney's office, granting a motion for summary judgment.

Jose Pagliery can be reached at (305) 347-6648.