

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

YVONNE DICKERSON : CIVIL ACTION
 :
 v. :
 :
 SUN OIL REFINING AND MARKETING CO. : NO. 99-520

MEMORANDUM AND ORDER

Fullam, Sr. J.

May , 2000

Plaintiff in this employment-discrimination case alleges that the defendant's conduct has caused her to experience serious emotional disturbances which are ongoing. The defendant wishes to schedule an examination by a physician of defendant's choosing, to evaluate the nature and extent of plaintiff's alleged psychological injuries. Plaintiff is willing to undergo such an examination, but only if a person she trusts can be present during the interview as an observer. Defendant seeks an order compelling plaintiff to submit to the examination unaccompanied.

Defendant proposes to have the examination conducted by a qualified psychiatrist, with an impressive résumé and bibliography. The examination would not involve administering any objective tests, but would consist of an interview in which the doctor would review plaintiff's medical history, symptoms, stresses, etc., and, on the basis of his observation and expertise, the doctor would be able to evaluate the nature and

extent of plaintiff's psychological injuries and reach conclusions as to her mental status.

While the defendant is undoubtedly entitled to have its own expert examine the plaintiff and ascertain the validity and extent of her claimed injuries, the defendant is not entitled to have its expert treat the plaintiff. In the context of probing interviews between psychiatrist and patient, the distinction between evaluation and treatment can easily become obscured. I conclude that the presence of a non-participating observer would provide plaintiff with needed reassurance and support, without in any way impairing the usefulness and accuracy of the evaluation. Indeed, it seems likely that it would be helpful to make sure that the examiner does not obtain a false picture of plaintiff's psychological condition triggered by her apprehensions about the examination itself. The examiner's résumé, which includes numerous articles on hypnosis as well as psychoanalysis, might readily make plaintiff nervous and apprehensive.

The arrangement suggested by plaintiff's counsel - the presence at the examination of a female paralegal with whom plaintiff has developed a trusting relationship, who would merely observe in an unobtrusive fashion, without in any way participating in the interview - is entirely reasonable, and should be made a condition of the order sought by the defendant, compelling the examination.

An Order follows.

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ORDER

AND NOW, this day of May, 2000, upon consideration of defendant's motion to compel plaintiff to submit to an examination conducted by a physician selected by defendant (Dr. Sidney E. Pulver) without the presence of counsel, and plaintiff's response, IT IS ORDERED:

That plaintiff is directed to submit to the proposed evaluation by Dr. Pulver, but may be accompanied throughout the evaluation by an observer satisfactory to the plaintiff, as previously proposed by plaintiff's counsel.

John P. Fullam, Sr. J.