

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

MARGIE HILL : CIVIL ACTION  
: :  
v. : NO. 05-0079  
: :  
LINCHRIS HOTEL CORPORATION AND :  
RADISSON HOTEL WILLIAMSPORT :

**MEMORANDUM AND ORDER**

**Juan R. Sánchez, J**

**April 15, 2005**

Linchris Hotel Corporation and Paul G. Enterprises, Inc.,<sup>1</sup> ask this court to dismiss Margie Hill's civil rights action for improper venue pursuant to Fed.R.Civ.P. 12(b)(3).

In this civil rights action Hill claims her former employer, Paul G. Enterprises, Inc., denied her a promotion because of her race and terminated her when she questioned their promotion decision, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e *et seq.*, and the Pennsylvania Human Relations Act. Defendants argue venue is improper in the Eastern District of Pennsylvania because neither Linchris Hotel Corporation, nor Paul G. Enterprises, Inc., have places of business in the Eastern District of Pennsylvania and the adverse employment action occurred in the Middle District of Pennsylvania. Venue is improper in the Eastern District of Pennsylvania.

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<sup>1</sup> Incorrectly listed as Radisson Hotel Williamsport

## FACTS<sup>2</sup>

In April 2002, Hill began working for the Radisson Hotel Williamsport as a line cook. Compl. ¶12. Throughout her employment, Hill's supervisor regularly harassed Hill about her work product, work skills and speed of food preparation and her. Compl.¶ 19. Hill also claims her work hours were cut in favor of her white male counterparts. Compl. ¶ 19. In January, 2003, Hill was denied a promotion to a supervisory position. Compl. ¶ 24. The position was instead given to a white male who was less qualified than Hill. Compl. ¶¶ 24, 26. When Hill asked why she was denied the promotion, her employment was terminated.

Hill is a resident of the Middle District of Pennsylvania. 28 U.S.C. § 118. The Radisson Hotel Williamsport is located in the Middle District of Pennsylvania. 28 U.S.C. § 118; See Motion to Dismiss ¶ 3. Defendants Linchris Hotel Corporation and Paul G. Enterprises, Inc., are business organizations with principal places of business in the Middle District of Pennsylvania. 28 U.S.C. § 118; See Motion to Dismiss ¶ 3. The adverse employment action Hill complains of occurred in the Middle District of Pennsylvania. Neither Linchris Hotel Corporation nor Paul G. Enterprises, Inc., have places of business in the Eastern District of Pennsylvania. Motion to Dismiss ¶¶ 3-4.

## DISCUSSION

Hill brings this action pursuant to Title VII of the Civil Rights Act. Title VII's venue provision states:

Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title [42 U.S.C. §§ 2000e et seq.]. Such an action may be brought in any judicial district in the State **in which the unlawful employment practice is alleged to have been**

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<sup>2</sup> In a motion to dismiss, we view the evidence in the light most favorable to the non-moving party. *Christopher v. Harbury*, 536 U.S. 403, 406 (2002).

**committed**, in the judicial district in which the employment records relevant to such practice are maintained and administered, **or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice**, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, **the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.**

42 U.S.C. § 2000e-5 (emphasis added). To remedy a case brought in the improper venue, a district court may either dismiss the case, or may transfer the case to the district in which it could have been brought. 28 U.S.C. § 1406(a); *Stebbins v. State Farm Mutual Automobile Ins. Co.*, 413 F.2d 1100, 1102 (D.C. Cir. 1969), *cert. denied*, 396 U.S. 895, 24 L. Ed. 2d 173, 90 S. Ct. 194 (1969); *Shuman v. Computer Assoc. Int'l, Inc.*, 762 F. Supp. 114, 118 (E.D. Pa. 1991).

We therefore conclude venue in this Eastern District of Pennsylvania is improper. The Middle District is where 1) Hill worked, 2) the unlawful employment action took place, and, 3) where Defendants' principal offices are located. Accordingly, we enter the following:

**ORDER**

And now this 15<sup>th</sup> day of April, 2005, it is hereby ORDERED that upon consideration of Defendant's Motion to Dismiss:

- (1) Defendant's Motion is DENIED;
- (2) The case shall be TRANSFERRED to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. 1406(a);
- (3) The Clerk is directed to Transfer the original pleadings of this case to the United States District Court for the Middle District of Pennsylvania.

BY THE COURT:

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Juan R. Sánchez, J.