



similar conduct by Dr. C. Wayne Jones.

22. The verbal abuse, intimidation and harassment of Plaintiff as above-described created a hostile work environment which made it impossible for Plaintiff to perform the duties of her employment to the best of her ability.

23. Plaintiff and other female employees were the target of verbal abuse, intimidation and harassment as above-described because they are women.

24. On many occasions, Plaintiff reported the instances of verbal abuse, intimidation, threats to Dr. C. Wayne Jones' immediate supervisors and, later, to Defendant's upper level management personnel.

25. Instead of taking action which was reasonably calculated to eliminate the harassment of Plaintiff in the workplace, plaintiff's complaints were ignored.

26. Defendant's supervisors and upper-level management tacitly and expressly approved of and condoned the verbal abuse and harassment.

The defendant contends that under Rule 12(c) of the Federal Rules of Civil Procedure, the Court should grant judgment on the pleadings because the complaint does not establish discrimination as contemplated under Title VII.

**A. Standard of Review Under Rule 12(c)**

A motion for judgment on the pleadings under Rule 12(c) of the Federal Rules of Civil Procedure is treated under the same standard as a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Regalbuto v. City of Philadelphia, 937 F. Supp. 374, 376-77 (E.D. Pa. 1995); Constitution Bank v. DiMarco, 815 F. Supp. 154, 157 (E.D. Pa. 1993). Consequently, judgment under Rule 12(c) will only be granted where the moving party has clearly established that no material issue of fact remains to be

resolved and that the movant is entitled to judgment as a matter of law. Regalbuto, 937 F. Supp. at 377 (citing Institute for Scientific Information, Inc. v. Gordon and Breach, Science Publishers, Inc., 931 F.2d 1002, 1005 (3d Cir. 1991), cert. denied, 502 U.S. 909 (1991)). Additionally, the district court must view the facts and inferences to be drawn from the pleadings in the light most favorable to the non-moving party. Regalbuto, 937 F. Supp. at 377 (citing Janney Montgomery Scott, Inc. v. Shepard Niles, Inc., 11 F.3d 399, 406 (3d Cir. 1993)).

**B. Standard for Discriminatory Conduct**

The defendant contends that the conduct alleged in the complaint do not rise to the level of discriminatory conduct. Title 42 of the United States Code, section 2000e-2 states the following:

It shall be an unlawful employment practice for an employer --

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

42 U.S.C. § 2000e-2(a)(1)&(2). The United States Supreme Court has held that "a plaintiff may establish a violation of Title VII by proving that discrimination based on sex has created a hostile or

abusive work environment." Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57, 66 (1986). "For sexual harassment to be actionable, it must be sufficiently significant, severe or pervasive 'to alter the conditions of [the victim's] employment and create an abusive working environment.'" Id. at 67 (quoting Henson v. Dundee, 682 F.2d 897, 904 (11th Cir. 1982)). Discrimination is not limited to "economic" or "tangible" discrimination. Meritor, 477 U.S. at 64. The phrase "terms, conditions, or privileges of employment" evinces a congressional intent "'to strike at the entire spectrum of disparate treatment of men and women.'" in employment. Id. (quoting Los Angeles Dept. of Water and Power v. Manhart, 435 U.S. 702, 707 n.13 (1978)). When the workplace is permeated with "discriminatory intimidation, ridicule, and insult," Meritor, 477 U.S. at 65, that is "sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment," Title VII is violated. Id. at 67. Also, the victim of the discriminatory conduct need not suffer a tangible psychological injury. Harris v. Forklift Systems, Inc., 114 S. Ct. 367, 370-71 (1993).

In the instant case, this Court finds that the factual allegations in the plaintiff's complaint are sufficient to survive a motion for judgment on the pleadings. The plaintiff has made allegations that put into issue the essential facts underlying this matter. Specifically, whether the conduct alleged, rises to the level of discriminatory conduct as required by 42 U.S.C. § 2000e-2 et seq. and other pertinent authorities.

An appropriate Order follows.

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

ALYCE R. COLLIER-HIGGINBOTHAM                   :     CIVIL ACTION  
  :     :  
  :     :  
  :     :  
PHILADELPHIA CHILD GUIDANCE CENTER           :     NO. 96-7992

O R D E R

AND NOW, this 27th day of June, 1997, upon consideration of Defendant Philadelphia Child Guidance Center's Motion for Judgment on the Pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure with respect to Count I of the Complaint, and the Plaintiff's Response thereto, IT IS HEREBY ORDERED that the Defendant's Motion is **DENIED**.

BY THE COURT:

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HERBERT J. HUTTON, J.