

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

JACQUELINE EADDY : CIVIL ACTION
: :
v. : :
: :
PA DEPT. OF PUBLIC WELFARE : No. 04- 5909
BERKS COUNTY ASSISTANCE OFFICE :

MEMORANDUM AND ORDER

Juan R. Sánchez, J

June 2, 2005

The Pennsylvania Department of Public Welfare (DPW) asks this Court to dismiss Jacqueline Eaddy's discrimination claims under the Pennsylvania Human Relations Act (PHRA)¹ and racially hostile work environment claim under Title VII.² The DPW argues Eaddy failed to exhaust her administrative remedies under Title VII, and that Eaddy's PHRA claims are barred by the Eleventh Amendment.³ Eaddy argues she exhausted her administrative remedies.

This Court reviewed the Complaint Eaddy filed with the Pennsylvania Human Relations Commission (PHRC), the notice of dual filing with the Equal Employment Opportunity Commission (EEOC) and the EEOC's right to sue letter and concludes Eaddy has failed to exhaust her administrative remedies with regard to her racially hostile work environment claim. This Court also

¹ 43 P.S. §951 *et seq.*

²42 U.S.C. §2000 *et seq.*

³The Pennsylvania Department of Public Welfare also asks this Court to Dismiss Eaddy's "unlawful refusal to rehire" claim. Eaddy's Complaint, however, does not specifically assert an unlawful failure to rehire claim. Accordingly, this Court need not address whether Eaddy exhausted her administrative remedies with regard to this issue.

concludes the Eleventh Amendment bars Eaddy's PHRA claims.

FACTS⁴

Eaddy, an African American, was hired by the DPW in October 1993 as an Income Maintenance Caseworker. In February 2000 and April 2000, Eaddy applied three times for promotion to Income Case Maintenance Casework Supervisor. She was interviewed all three times, however, DPW promoted two white candidates and one Hispanic candidate. Eaddy maintains she was told Latinos, not African Americans, were targeted for hire.

In July 2000, Eaddy filed a Complaint with the Pennsylvania Human Relations Commission (PHRC) and the Equal Employment Opportunity Commission (EEOC). Eaddy's Complaint alleged the DPW failed to promote her because of her race. Her Complaint stated:

- a. On or about May 30, 2000, Gary W. Rightmire, executive director, informed me of non-promotion to income maintenance caseworker supervisor because of my race, African American.
 - (1) In October 1993, I was hired as an income maintenance caseworker trainee
 - (2) In February 2000, I applied for one of three income maintenance caseworker supervisor positions.
 - (3) On May 9, 2000, I was interviewed by Mr. Rightmire, Joseph Seips and Joan LNU area managers.
 - (4) I met and possibly exceeded the qualifications for the job.
 - (5) In 1997 and 1998, I had applied for the same position.
 - (a) Mr. Rightmire gave no specific reason for then
 - (6) In May 2000, Mr Rightmire's letter gave no specific reason for my rejection.
 - (7) The respondent promoted Barry Santee and Carol Bonsall, Caucasians and Elizabeth Vicente, a Hispanic.
 - (8) Since 1993, the respondent has promoted only Caucasian and two Hispanics to income maintenance caseworker supervisor.
 - (a) During this same time frame, no African Americans have been promoted to this position although several have applied .
 - (9) My overall evaluation for 1999 was outstanding which was highest evaluation in the office.

⁴ 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).

*Plf.'s PHRC Compl.*⁵

After Eaddy filed her Complaint she was sent on loan to the DPW's Harrisburg office to fill an income specialist position in her area of expertise. Eaddy worked in the Harrisburg office until she retired for personal reasons in 2003. Eaddy unsuccessfully applied for rehire four times since retiring.

DISCUSSION

“Federal courts lack jurisdiction to hear a Title VII claim, unless the plaintiff has filed a charge with the EEOC.” *Woodson v. Scott Paper Co.*, 109 F.3d 913, 926 (3d Cir. 1997). Once a charge is filed with the EEOC, “the scope of a resulting private civil action in the district court is defined by the scope of the EEOC investigation which can reasonably be expected to grow out of the charge of discrimination.” *Hicks v. ABT Associates, Inc.*, 572 F.2d 960, 966 (3d Cir. 1978); *see also, Ostapowicz v. Johnson Bronze Co.*, 541 F.2d 394, 398-399 (3d Cir. 1976)(finding the parameters of the civil action is defined by the scope of the EEOC investigation and what grows out of the charge, “including new acts which occurred during the pendency of proceedings”). Eaddy’s civil action is therefore limited to acts within the scope of Eaddy’s EEOC Complaint or any subsequent EEOC investigation. *Walters v. Parsons*, 729 F.2d 233, 237 (3d Cir. 1984).

A charge of a racially hostile work environment is outside the scope of Eaddy’s EEOC Complaint and any subsequent EEOC investigation. The Complaint Eaddy filed did not contain a claim of a racially hostile work environment. Eaddy did not amend her Complaint to add this claim, or file an additional Complaint. There is no evidence the EEOC investigated whether Eaddy

⁵ On August 22, 2000 the EEOC sent Eaddy a letter acknowledging the PHRC complaint was cross filed with the EEOC. On September 24, 2004, Eaddy received a right to sue letter from the EEOC.

was subjected to a racially hostile work environment or had notice of such allegations. Eaddy's racially hostile work environment claim under Title VII is not administratively exhausted and, therefore, is dismissed.

The Eleventh Amendment bars suits against states in federal court.⁶ Eleventh Amendment immunity extends to entities that are arms of the state. *Laskaris v. Thornburgh*, 661 F.2d 23 (3d Cir. 1981). The DPW is an arm of the Commonwealth of Pennsylvania and is entitled to immunity from suit under the Eleventh Amendment. *See Atascadero State Hosp. v. Scanlon*, 473 U.S. 234 (1985)(holding state agencies are entitled to Eleventh Amendment immunity); *Tarantino v. Allentown State Hospital*, 16 Pa. Commw. 133, 134 (Pa. Commw. Ct. 1974)(finding the DPW is an arm of the Commonwealth of Pennsylvania). “There are two ways that a state may lose its Eleventh Amendment immunity: Congress can explicitly abrogate it in a particular statute, or a state can waive it with regard to a particular statute.” *Fitzpatrick v. Pennsylvania*, 40 F. Supp. 2d 631, 634 (E.D. Pa. 1999). Pennsylvania courts have held the PHRA waives the state's sovereign immunity. *Id*; *see also Mansfield State College v. Kovich*, 407 A.2d 1387, 1388 (Pa. Commw. Ct. 1979). This waiver however only permits the Commonwealth to be sued under that statute in state court. *Id*. “Pennsylvania has by statute specifically withheld its consent to federal suit.” *Dill v. Dept. of Pub. Welfare, Phila. County Assistance Office*, 3 F. Supp. 2d 583, 587 (E.D. Pa. 1998); *See also* 42 Pa. C. S. § 8521(b). Eaddy’s PHRA claims cannot be brought in Federal Court since the Commonwealth's immunity to suit under the PHRA remains intact. Accordingly, this Court enters the following:

⁶ The Eleventh Amendment states, “The Judicial Power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any foreign state.”

ORDER

AND NOW, this 2nd day of June, 2005, Defendant's Motion to Dismiss is Granted. Plaintiff's claims under the Pennsylvania Human Relations Act are Dismissed without prejudice to Plaintiff's right to refile in the appropriate state court. Plaintiff's Title VII racially hostile work environment claim brought under the Civil Rights Act of 1964 is Dismissed, however, Defendant is directed to answer Plaintiff's Title VII claim for denial of promotion within 20 days of entry of this Order.

BY THE COURT:

S / Juan R. Sánchez J

Juan R. Sánchez J.