

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

MARY CURRAN : CIVIL ACTION
 :
 v. :
 :
 LOWER MERION SCHOOL DISTRICT : NO. 97-6029

MEMORANDUM AND ORDER

Fullam, Sr. J.

July , 1998

In October, 1996, in response to a newspaper advertisement, plaintiff applied to the defendant Lower Merion School District to have her name added to the list of certified substitute teachers, available for temporary employment by the district from time to time. In due course, plaintiff was advised that her application would not be considered, because her past performance as a substitute teacher in the district had not been satisfactory. Some ten years earlier, in 1986, plaintiff had briefly served as a substitute teacher on two occasions, and on both occasions the administrators of the respective schools to which she was assigned had complained about her classroom conduct.

Plaintiff, who is not represented by counsel, filed a complaint with the Equal Employment Opportunity Commission, charging the defendant school district with age discrimination. The EEOC found no basis for sustaining such a charge, but issued a right-to-sue letter, and plaintiff has now brought this

discrimination suit. The defendant has filed a motion for summary judgment.

Plaintiff was 67 years old at the time of her 1996 application. There is no other evidence of age discrimination in this case. Indeed, it is undisputed that 68 percent of the teachers on defendant's approved substitute list are over 40 years of age, and 19 percent are over 60 years of age.

In any event, the defendant has proffered legitimate reasons for not processing plaintiff's application. Plaintiff does not dispute the fact that she had difficulties with her students on each of the earlier two occasions, and that on the latter of the two occasions she addressed an African-American student as "colored," triggering a confrontation in which plaintiff was castigated as a "racist."

The record before this Court convincingly demonstrates that the plaintiff is not in fact a racist, and that her use of the word "colored" was not considered by her to have any derogatory connotations. The school administrators who complained that the plaintiff had demonstrated "insensitivity" to student feelings on racial matters may well have been mistaken in that characterization, but the personnel director responsible for the substitute teacher list had a right to rely on their evaluations.

It is important to bear in mind that the plaintiff does

not have a legal or constitutional right to be employed by the defendant school district in any capacity. The defendant school district has no legal obligation to hire plaintiff. The sole legal responsibility of the defendant school district is to make its hiring decisions for reasons totally unrelated to plaintiff's age. So long as the defendant does not discriminate on the basis of age, it matters not whether its judgment was correct or incorrect.

On the basis of the material submitted by plaintiff herself, and on the basis of her deposition testimony, no rational fact-finder could conclude that she was denied employment as a certified substitute teacher for reasons of age. The defendant's Motion for Summary Judgment will be granted.

An Order follows.

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ORDER

AND NOW, this day of July, 1998, upon
consideration of the defendant's Motion for Summary Judgment, IT
IS ORDERED:

1. The Defendant's Motion for Summary Judgment is
GRANTED.
2. This action is DISMISSED WITH PREJUDICE.

John P. Fullam, Sr. J.