

SUMMARY OF JUDGE NANCY EDMUNDS' OPINION

Bellandra Foster and BBF Engineering Services, P.C.

v

Victor Judnic and Mark Steucher, et al

This Opinion of the Honorable Nancy Edmunds is difficult to digest. This Opinion was rendered on summary judgment, meaning that the Court has taken this matter from the trier of fact and decided it as a matter of law finding that there were no genuine issues of material fact that should get to a jury.

In making this decision, the Court has sided with the Defendants on every issue. In almost unanimous fashion, the Court has accepted the Defendants' position on every issue while refuting all evidence presented by Plaintiffs and questioned its credibility.

In short, the Court acknowledges that Plaintiffs offer evidence to refute each of Defendants' argument. However, this Court appears to conclude that without a demonstration that the Defendants said that this "N-Word" "B-Word" will not get paid, Plaintiffs have no case. Reading this opinion, even admissions such as those would likely be seen as indirect evidence. Without ever defining direct evidence, the Court has presented an insurmountable barrier in the face of the findings of Defendants' own investigators. What then does Defendants' Title VI system mean—nothing?

While the Opinion is too long to offer every example of this type of conduct, some of the more glaring examples include the following:

1. The Court held that Title VI does not address discrimination based on sex, though the Federal Highway Administration ("FHWA") is subject to another statute (23 U.S.C. §324) that prohibits discrimination for projects funded by the FHWA.

2. The Court's conclusion that Mark Steucher's decision to change the scores was a gender and race neutral decision because he used a pronoun her which referred to Bellandra Foster when he said, "oh no, I hate her." In this Court's Opinion, this statement and the decision to take an adverse action as a result of it were race and gender neutral.

3. In this Court's Opinion, Victor Judnic's statement, "no woman should be making this kind of money", is also a race and gender neutral statement even though the decision substantiates that he was referring to, and could have only been referring to, Bellandra Foster.

4. Despite the findings of the Federal Highway Administration and MDOT in investigating this matter in accordance with its own policies and procedures, the Court dismisses the findings of the FHWA and MDOT as untrustworthy and almost lacking in credibility. The Court gives no deference to the Agency's findings.

5. Despite finding that Love Charles was removed as a contractor for BBF Engineering Services, the Court dismisses this as a race and gender neutral action on the part of Defendants.

6. The Court further goes on to find that the decision of the class of one claim would be futile and that the Court could not allow an amendment to add a class of one claim.

7. The Court finally dismisses any findings of a whistle blower claim both on the merits on the premise that this claim would have been time-barred even though a statute of limitations' argument was not proffered by the Defendants.