

2004 WL 2700289
United States District Court,
E.D. Louisiana.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

v.

NOBLE DRILLING (U.S.) INC.

No. Civ.A.04-1683. | Nov. 19, 2004.

Attorneys and Law Firms

Nancy Eleanor Graham, Equal Employment Opportunity Commission, New Orleans, LA, Kenneth M. Golski, Equal Employment Opportunity Commission, Norfolk, VA, for Plaintiff.

Terrill W. Boykin, Rodney, Bordenave, Boykin, & Ehret, New Orleans, LA, for defendant.

Opinion

ORDER AND REASONS

BARBIER, J.

*1 Before the Court is Defendant’s Motion to Dismiss for Improper Venue or, Alternatively, to Transfer Venue. (Rec.Doc. 3). The motion is opposed. (Rec.Doc. 8). The Court finds that venue is improper in the Eastern District of Louisiana and, in the interest of justice, the case should be transferred to the Western District of Louisiana.

BACKGROUND

On June 16, 2004, the Equal Employment Opportunity Commission (“EEOC”) filed this action in the Eastern District of Louisiana under Title VII of the Civil Rights Act of 1964 (“Title VII”). The EEOC filed the action on behalf of Robert T. Minter, Jr. (“Minter”), after it determined that Noble Drilling, Inc. (“Defendant”) deprived Minter of equal employment opportunities and otherwise adversely affected his status as an employee because of his race and in retaliation for complaining of race discrimination. Specifically, the EEOC alleges that Minter had a noose placed around his neck by three white co-workers during his work assignment, and as a result of reporting the incident, Defendant terminated Minter.¹

The alleged incident occurred on a semi-submersible oil rig owned and operated by Defendant. The oil rig was located approximately eighty-eight miles off the coast of Louisiana in international waters outside of the United States.² After Minter reported the incident, Defendant terminated the three white co-workers and Minter.³ According to Defendant, the decision to terminate Minter was made at Defendant’s corporate headquarters in Sugar Land, Texas.⁴ Upon termination, the four employees were transported together on a crew boat to Cameron, Louisiana.⁵

STANDARD OF REVIEW

Congress has adopted special venue provisions for Title VII cases.⁶ Specifically, 42 U.S.C. § 2000e-5(f)(3) states:

[A Title VII action] may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been 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.

Thus, venue in a Title VII case may be brought in any judicial district where (1) the allegedly unlawful practice occurred, (2) the employment records are kept, or (3) where the alleged victim would have worked. The United States Fifth Circuit Court of Appeals has held that the venue provisions of 28 U.S.C. §§ 1404 and 1406 are also applicable and should be considered in Title VII cases.⁷ Section 1404(a) provides that for “the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” The decision to transfer a pending case is within the sound discretion of the district court.⁸ The party moving for a change of venue bears the burden of proving why the forum should be changed.⁹ Additionally, the Plaintiff’s choice of forum generally should not be disturbed, unless the balance of factors strongly favors the moving party.¹⁰

DISCUSSION

*2 According to the Title VII venue statute, venue is improper in the Eastern District. The allegedly unlawful employment practice did not occur in the Eastern District, employee records are not kept in the Eastern District, and there is no indication that Minter would have worked in the Eastern District had he remained employed by Defendant. Consequently, the case may be dismissed or, in the interest of justice, the matter may be transferred to a district where the action might have been brought. For the reasons stated more fully below, the Court finds that venue is proper in the Western District of Louisiana and the Southern District of Texas, Houston Division. Plaintiff desires to proceed in the Western District of Louisiana, while Defendant requests that the case be transferred to the Southern District of Texas.

Plaintiff indicated in its opposition to Defendant’s motion that if venue is improper in the Eastern District of Louisiana, the matter should be transferred to Louisiana’s Western District. It is undisputed that a portion of the alleged hostile work environment occurred in international waters outside of the United States and not in Louisiana. However, Plaintiff contends that the hostile work environment continued when Minter was placed on a crew boat with the same co-workers that allegedly placed a noose around Minter’s neck. Additionally, Plaintiff asserts that the method by which Defendant put Minter ashore constituted a discriminatory employment practice because Plaintiff was left alone with the three co-workers and without transportation, lodging or assistance.

Defendant contends that venue only lies in the Southern District of Texas. Specifically, Defendant states that the allegedly unlawful practice of retaliatory discharge occurred in the Southern District of Texas because that is where the decision was made to terminate Minter. Further, Defendant explains that venue is proper in the Southern District of Texas because the employment records are kept there.

The Court finds that based on the facts alleged, a portion of the allegedly unlawful employment practice occurred in the Western District of Louisiana. Consequently, under 42 U.S.C. § 2000e-5(f)(3), venue is proper in the Western District. However, venue also exists in Texas because the employment records are kept at Defendant’s office in Texas and the decision to terminate Minter was made in Texas.

As noted above, the factors provided in 28 U.S.C. §§ 1404 and 1406 are considered in Title VII cases. A court must balance a number of factors to determine where a case should be transferred. “Both private and public interest factors influence the court’s transfer determination.”¹¹ The private factors, which involve the preferences and conveniences of the parties and witnesses in the case include the following:

(1) the availability and convenience of witnesses and parties; (2) the cost of obtaining the attendance of witnesses and other trial expenses; (3) the location of books and records; (4) the place of the alleged wrong; (5) the plaintiff’s choice of forum; (6) the possibility of delay and prejudice if transfer is granted; and (7) the location of counsel.¹²

*3 “The public interest factors address broader objectives, such as the fair and efficient administration of the judicial system.¹³ The Court must determine whether the balance of the public and private interest factors ‘strongly outweighs the plaintiff’s choice of forum’ such that transfer is appropriate.”¹⁴

Although there are factors pointing to both the Western District of Louisiana and the Southern District of Texas, the private interest factors that favor venue in Texas do not outweigh the factors favoring Louisiana, nor do they “strongly outweigh” the

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Plaintiff's choice of forum. In this case, the convenience and availability of witnesses does not favor one venue over the other. The strongest factor favoring venue in Texas is the location of the employment records, however, this matter does not appear to involve voluminous document production or discovery.

The factor pertaining to the place of the alleged wrong indicates that the matter should be transferred to Louisiana's Western District. Notably, Minter was required to report to work in Cameron Parish, Louisiana. Further, an allegedly adverse employment action may have occurred in Louisiana (1) when Plaintiff was transported to shore in Cameron Parish and (2) when Plaintiff was ultimately released from his employment at the dock. Additionally, Plaintiff desires to proceed in the Western District of Louisiana. Consequently, the private interest factors favor Louisiana over Texas and, in the interest of justice, the case should be transferred. Accordingly,

IT IS ORDERED that the Defendant's Motion to Dismiss for Improper Venue or, Alternatively, to Transfer Venue should be and hereby is GRANTED and this case is transferred to the Western District of Louisiana.

Parallel Citations

94 Fair Empl.Prac.Cas. (BNA) 1844

Footnotes

- 1 Complaint, ¶ 7 (Rec.Doc. 1).
- 2 Defendant's Motion to Dismiss for Improper Venue, or Alternatively to Transfer Venue, p. 2 (Rec.Doc. 3).
- 3 Defendant's Motion to Dismiss for Improper Venue, or Alternatively to Transfer Venue, p. 3 (Rec.Doc. 3).
- 4 Defendant's Motion to Dismiss for Improper Venue, or Alternatively to Transfer Venue, p. 3 (Rec.Doc. 3).
- 5 Plaintiff's Brief in Opposition to Defendant's Motion to Dismiss for Improper Venue, or Alternatively to Transfer Venue, p. 2 (Rec.Doc. 8).
- 6 *In re Horseshoe Entertainment*, 337 F.3d 429, 432 (5th Cir.2003).
- 7 *Id.* at 433.
- 8 *Jarvis Christian College v. Exxon Corp.*, 845 F.2d 523, 528 (5th Cir.1988).
- 9 *Peteet v. Dow Chem. Co.*, 868 F.2d 1428, 1436 (5th Cir.1989).
- 10 *See Houston Trial Reports, Inc. v. LRP Publications, Inc.*, 85 F.Supp.2d 663, 667-68 (S.D.Tex. Aug.31, 1999) (citing *Henderson v. AT & T Corp.*, 918 F.Supp. 1059, 1065 (S.D.Tex.1996); *see also Time, Inc. v. Manning*, 366 F.2d 690, 698 (5th Cir.1966)).
- 11 *Houston Trial Reports, Inc.*, 85 F.Supp.2d at 668.
- 12 *Id.*
- 13 *See id.* (citing *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 879-880 (3d Cir.1995)).
- 14 *See id.* (citing *Henderson*, 918 F.Supp. at 1068).