United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-5281 **September Term, 2003**

Filed On: March 31, 2004 [812866]

Sharon Mavity

Appellant

v.

Ann M. Veneman, Secretary of the Department of Agriculture,

Appellee

Appeal from the United States District Court
for the District of Columbia
(No. 00cv02518)

Before: RANDOLPH, ROGERS and TATEL, *Circuit Judges*.

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs and arguments of the parties.

For the reasons stated in the accompanying Memorandum, it is

ORDERED and ADJUDGED that the judgment of the district court be affirmed.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Rule 41.

FOR THE COURT:
Mark J. Langer, Clerk

BY:

No. 02-5281 *Mavity v. Veneman*

Deputy Clerk

M E M O R A N D U M

After a failed attempt to buy back her farm under the Farm Services Agency's (FSA's) lease-back/buy-back program, appellant Sharon Mavity filed suit against the agency, alleging gender discrimination in violation of the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691- 1691f (2000), and arbitrary and capricious agency action in violation of the Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(a) (2000). Mavity claims that in contrast to their treatment of male farmers, FSA officials, among other things, refused to allow a two-step transaction through which Mavity could transfer the farm to her sons and waited over a year before providing her with the requested buy-back price. The district court dismissed the APA claim and, following a bench trial, found that Mavity had failed to prove discrimination. *See Mavity v. Veneman*, No. 00-2518, slip op. (D.D.C. July 3, 2002). Proceeding *pro se*, Mavity now appeals. We appointed Paul S. Berman as amicus curiae to present arguments on her behalf.

Amicus contends that the district court, relying on its earlier decision in *Love v. Veneman*, No. 00-2502, slip op. (D.D.C. Dec. 13, 2001), erred in dismissing Mavity's APA claim on the grounds that ECOA provided an adequate remedy. We need not address that issue, however, because the transcript reveals that trial counsel not only never contested the government's motion to dismiss the APA claim, but voluntarily withdrew that claim, believing that all of Mavity's claims were actionable under ECOA. *See* J.A. 93 ("Your Honor, the plaintiff is not going to contest this motion. I too, read your decision in *Love*, and the plaintiff is reassured that in the defendant's motion, it was made clear

that the various acts committed against the plaintiff are actionable under ECOA; and if that is the case, the plaintiff is happy to withdraw.").

With respect to the ECOA claim, amicus argues that the district court's factual findings are clearly erroneous and fail to satisfy Federal Rule of Civil Procedure 52(a)'s requirement to "specially" find facts on which to base the court's conclusions of law. *See* Fed. R. Civ. P. 52(a). Specifically, amicus argues that the district court failed to assess the evidence adequately and to provide a reasoned analysis of particular circumstantial evidence. We disagree. The district court's factual findings are thorough and permit meaningful appellate review. *See Lyles v. United States*, 759 F.2d 941, 944 (D.C. Cir. 1985). The district court recited, considered, and weighed the relevant evidence before presenting its legal conclusions. Amicus obviously disagrees with the district court's assessment of the evidence, but it has pointed to nothing in the record that would leave us with "the definite and firm conviction that a mistake has been committed." *Boca Investerings P'ship v. United States*, 314 F.3d 625, 630 (D.C. Cir. 2003) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

Amicus also argues that the court improperly used the direct evidence standard articulated in *Price Waterhouse v. Hopkins*, 490 U.S. 228, 277 (1989), rather than the burden-shifting framework of *McDonnell-Douglas Corp. v. Green*, 411 U.S. 792 (1973). Again, we disagree. Although the district court stated that Mavity's evidence was insufficient to proceed under *Price Waterhouse*, *see Mavity*, No. 00-2518, slip op. at 18-19, the court also analyzed the evidence—both before and after its *Price Waterhouse* citation—under the framework of *McDonnell-Douglas* and its progeny. With

respect to each of Mavity's claims, the district court considered the sufficiency of her prima facie case, whether there were legitimate non-discriminatory reasons for any alleged disparate treatment, and whether Mavity ultimately carried her burden of persuasion. *Id.* at 15-19. Indeed, in assessing the evidence, the district court cited *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133 (2000), for the proposition that in order to find discrimination, it was not enough that the court disbelieved the government's explanation with respect to the delay in providing a buy-back price—the court also had to believe Mavity's explanation. *See Mavity*, No. 00-2518, slip op. at 17 (citing *Reeves*, 530 U.S. at 146-47).

The record certainly suggests that FSA officials did little to help Mavity keep her family farm. But the question in this case is whether FSA's failure to do so amounted to discrimination in violation of ECOA. The district court found that it did not, and our job here is limited to determining whether the district court's factual findings on that matter are "clearly erroneous." *See Anderson v. Bessemer City*, 470 U.S. 564, 573-75 (1985); Fed. R. Civ. P. 52(a). Because they are not, and because appellant's remaining arguments are without merit, we affirm.