180 Fed.Appx. 865
This case was not selected for publication in the Federal Reporter.
Not for Publication in West's Federal Reporter See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also Eleventh Circuit Rules 36-2, 36-3. (Find CTA11 Rule 36-2 and Find CTA11 Rule 36-3)
United States Court of Appeals,
Eleventh Circuit.

UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff-Appellee, Cross-Appellant,
Ted Maines, Intervenor-Plaintiff-Appellee,
v.
FEDERAL EXPRESS CORPORATION,
Defendant-Appellant-Cross-Appellee.

No. 05-13448. | May 11, 2006.

Synopsis

Background: Equal Employment Opportunity Commission (EEOC) and employee brought action against employer claiming retaliation in violation of Title VII. The United States District Court for the Middle District of Florida granted judgment for employee after jury verdict in his favor. Parties appealed.

Holding: The Court of Appeals held that EEOC was not entitled to injunctive relief against employer.

Affirmed.

Attorneys and Law Firms

***866** Jay Lloyd Grytdahl, Federal Express Corporation, Memphis, TN, for Defendant-Appellant-Cross-Appellee.

Anne Noel Occhialino, EEOC, Washington, DC, for Plaintiff-Appellee-Cross-Appellant.

Jill S. Schwartz, Jill S. Schwartz & Assoc., P.A., Winter Park, FL, Marcia K. Lippincott, Marcia K. Lippincott, P.A., Lake Mary, FL, for Intervenor-Plaintiff-Appellee.

Appeals from the United States District Court for the Middle District of Florida. D.C. Docket No. 02-01112-CV-ORL-28-DAB.

Before TJOFLAT, BARKETT and GOODWIN,[*] Circuit Judges.

[*] Honorable Alfred T. Goodwin, United States Circuit Judge for the Ninth Circuit, sitting by designation.

Opinion

PER CURIAM:

Federal Express ("FedEx") appeals a jury verdict finding in favor of Theodore Maines, its onetime employee on his claim of retaliation in violation of Title VII. Fed Ex asserts that it was entitled to a judgment in its favor as a matter of law. Maines cross appeals, asserting that the district court abused its discretion when it denied Maines' motion for front pay, limiting his award to backpay and compensatory damages. Finally, the Equal Employment Opportunity Commission ("EEOC"), Maines' co-plaintiff in this litigation, appeals the district court's denial of nearly all the injunctive relief it requested. We find no reversible error.

First, judgment as a matter of law should be granted only when, viewing the evidence in the light most favorable to the nonmoving party, the facts and inferences point so strongly in favor of one party that reasonable persons could not arrive at a contrary verdict. *See Castle v. Sangamo Weston, Inc.,* 837 F.2d 1550, 1558 (11th Cir.1988). We do not find that to be the case here. When viewed in the light most favorable to Maines, the evidence was sufficient to support the jury's finding of retaliation.

We also find no merit to Maines' claim for front pay. Prevailing Title VII plaintiffs are presumptively entitled to either reinstatement or front pay as part of Title VII's remedial "make whole" policy. The district court properly held that reinstatement was not feasible in this case. Moreover, we do not find that the facts on this question are so overwhelmingly skewed toward Maines that a reasonable judge ***867** could not have found that the presumption in Maines' favor had been overcome.

Finally, we find no abuse of discretion in the denial of the EEOC's claim for injunctive relief. This Court has indicated its agreement with the Seventh Circuit that "the EEOC is normally entitled to injunctive relief where it proves discrimination against one employee and the employer fails to prove that the violation is not likely to recur." *U.S. E.E.O.C. v. Massey Yardley,* 117 F.3d 1244, 1253 (11th Cir.1997) (citing *EEOC v. Harris Chernin,* 10 F.3d 1286, 1291 (7th Cir.1993)). Mindful of the prophylactic purposes of the such relief, the court concluded that "the violation is not likely to recur,"

stating that the retaliation "was an isolated incident by a single manager who is no longer employed by FedEx." We find no error in that determination.

AFFIRMED.

Parallel Citations

2006 WL 1288614 (C.A.11 (Fla.))