

The Commonwealth of Massachusetts
Commission Against Discrimination
436 Dwight Street, Rm. 220, Springfield, MA 01103
Phone: (413) 739-2145 Fax: (413) 784-1056

MCAD DOCKET NUMBER: 082303419
FILING DATE: 12/1/08

EEOC/HUD CHARGE NUMBER: 160-2009-00387
VIOLATION DATE: 6/24/2008

Name of Aggrieved Person or Organization:

Juana Girona-Serrano

G.L. c. 4, § 7(26)(c)
privacy
[Redacted]

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

Planned Parenthood League of Massachusetts
3550 Main St. Suite 201
Springfield, MA 01107
617-616-1600

No. of Employees: 25+
Work Location: Springfield

Cause of Discrimination based on:

Disability (G.L. c. 4, § 7(26)(c) privacy), Age (49) D.O.B. (G.L. c. 4, § 7(26)(c) privacy) National Origin (Puerto Rican)

The particulars are:

I, Juana Girona-Serrano, believe that I was discriminated against by Planned Parenthood League of Massachusetts, by subjecting me to unequal terms and conditions of my employment and terminated me because of my Disability (G.L. c. 4, § 7(26)(c) privacy), Age (G.L. c. 4, § 7(26)(c) privacy) and National Origin (Puerto Rican). This is in violation of M.G.L. 151B Section 4 Paragraph 16, 1B, 1, The Americans with Disabilities Act, The Age Discrimination in Employment Act and Title VII of the Civil Rights Act as amended.

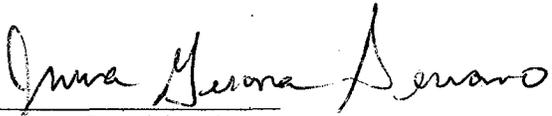
1. I was hired on April 19, 2004, as a Registered Medical Assistant. My work performance had always been satisfactory.
2. Between February and May of 2008, Supervisor, (G.L. c. 4, § 7(26)(c) privacy), Caucasian, age 26, was suspended for three days pending an investigation regarding complaints from co-workers who said they were offended by the racial slurs said by Ms. Mercer on at least five different occasions.
3. Ms. Mercer comments were "do I look black to you?" "Jewbag" and "How can two women be together". In March 2008, I informed my Supervisor, (G.L. c. 4, § 7(26)(c) privacy) about how I felt uncomfortable with Ms. Mercer's racial remarks. Ms. (G.L. c. 4, § 7(26)(c) privacy) stated that they were aware of it and were dealing with it. As a result of the complaints, Ms. Mercer was suspended for three days pending an investigation. When she returned to work she was mandated to receive three sessions from Employee Assistance Program for discrimination, while on company time.
4. On June 7, 2008, I attended an event for the Transgender Pride Organization with (G.L. c. 4, § 7(26)(c) privacy) Health Promotion Coordination. On June 19, 2008, I was paged to go to the office of (G.L. c. 4, § 7(26)(c) privacy), Center Director. At this meeting I was informed that a complaint was received involving my performance and was told that I would be suspended for 3 days with

pay in order for the Center to conduct an investigation into the complaint, and asked for the return of my badge.

5. On June 23, 2008, I received a message left on my home phone stating that the investigation had been completed and that my immediate supervisor, G.L. c. 4, § 7(26)(c) privacy, requested a meeting for June 24, 2008. Upon arriving at this meeting I was told that I would be immediately terminated due to the "zero tolerance" policy of Planned Parenthood League of Massachusetts. I was told that I was allegedly heckling a speaker and that I appeared to have been drunk. I dispute these allegations as I was not drinking alcohol and do not recall or have any memory of me heckling anyone.
6. I apologized if I had offended anyone and explained that there were circumstances beyond my control that may have caused me to act out of character. Due to being under prescription medication for my mental health could have caused me to act out of character. However, I remained terminated.
7. I feel that this was unlawful discrimination based on my disability, age and national origin because a younger non-Hispanic employee, Supervisor, Erica Mercer was not terminated as I was for making racial slurs.

Therefore, I believe the Respondent had subjected me to unfair treatment because of my Disability (G.L. c. 4, § 7(26)(c) privacy), Age (49; G.L. c. 4, § 7(26)(c)) and National Origin (Puerto Rican).

I hereby verify, under the pains and penalties of perjury, which I have read this complaint and the allegations contained herein are true to the best of my knowledge.


(Signature of Complainant)

The Commonwealth of Massachusetts
Commission Against Discrimination
436 Dwight Street, Rm. 220 , Springfield, MA 01103
Phone: (413) 739-2145 Fax: (413) 784-1056

- DISMISSAL and NOTIFICATION of RIGHTS -

To: Juana M. Girona-Serrano
G.L. c. 4, § 7(26)(c) privacy
G.L. c. 4, § 7(26)(c) privacy
Case: Juana Girona-Serrano v. Planned Parenthood League
of Massachusetts
MCAD Docket Number: 08SEM03419
EEOC Number: 16C-2009-00387
Investigator: Gilbert May

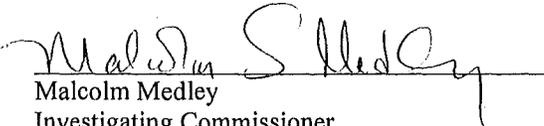
Your complaint has been dismissed for the following reasons:

- The facts alleged fail to state a claim under any of the statutes the Commission enforces.
- Respondent employs less than the required number of employees.
- Your complaint was not timely filed with the Commission, i.e. you waited too long after the date(s) of the alleged discrimination to file. Because it was filed outside the time limit prescribed by law, the Commission cannot investigate your allegations.
- You failed to provide requested information, failed or refused to appear or to be available for necessary interviews/conference, or otherwise refused to cooperate to the extent that the Commission has been unable to resolve your complaint. You have had more than 30 days in which to respond to our written request.
- The Commission's efforts to locate you have been unsuccessful. You have had at least 30 days in which to respond to a notice sent to your last known address.
- The Respondent has made a reasonable settlement, offering full relief for the harm you alleged. 30 days have expired since you received actual notice of this settlement offer.
- The Commission issues the following determination. Based upon the Commission's investigation, the Commission is unable to conclude that the information obtained establishes a violation of the statutes. This does not certify that the Respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this complaint.
- Other (briefly state)

- NOTICE of APPEAL -

If you wish to appeal the dismissal of your complaint and believe that the above stated reason for dismissal is incorrect, you may appeal to this Commission within 10 days after receipt of this notice. You or your attorney must make your appeal of the dismissal in writing to the appeals clerk of this Commission. **Attention: Patty Woods.**

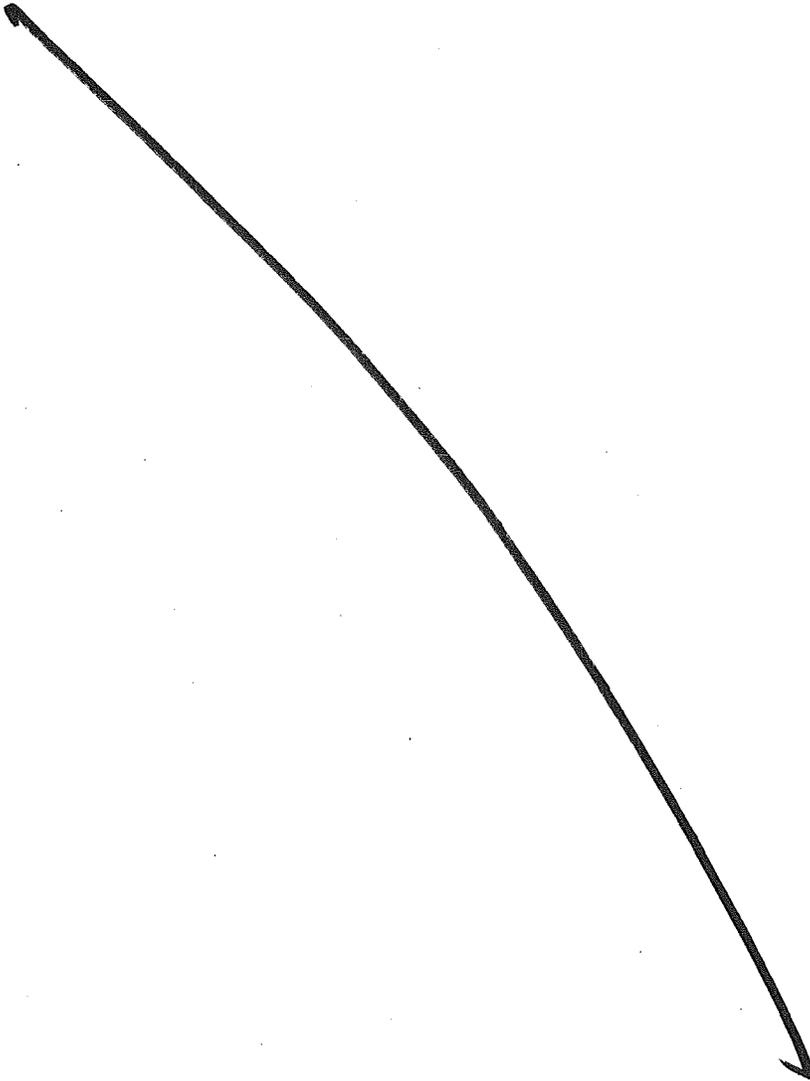
All employment complaints, where applicable, were filed by the MCAD with the Equal Employment Opportunity Commission. Our finding, which will be forwarded to its area office, JFK Federal Building, Boston, MA will be given substantial weight provided that such findings are in accordance with the requirements of Title VII of the Civil Rights Act of 1964, the ADEA, and/or the ADA, as amended.


Malcolm Medley
Investigating Commissioner

Date

6/30/10

Cc: Maura M. Pelham, Esquire
Mintz, Levin
One Financial Center
Boston, MA 02111



INVESTIGATIVE DISPOSITION

Case Name: Juana Girona-Serrano v. Planned Parenthood League of
Massachusetts
MCAD Docket No.: 08SEM03419
EEOC Docket No.: 16C-2009-00387
No. of Employees: 25+
Investigator: Gilbert May, Compliance Officer
Recommendation: **Lack of Probable Cause**

Introduction

On December 1, 2008, Complainant, a forty-nine (49) year old Hispanic woman who suffers from [REDACTED] G.L. c. 4, § 7(26)(c) privacy and has a date of birth of [REDACTED] G.L. c. 4, § 7(26)(c) privacy, filed a complaint charging that Respondent subjected her to unequal terms and conditions of her employment and subsequently terminated her because of her disabilities, age and national origin, in violation of M.G.L. Chapter 151B Section 4 Paragraphs 1, 1B & 16, the Americans with Disabilities Act, the Age Discrimination in Employment and Title VII of the 1964 Civil Rights Act, as amended.

Complainant's Allegations

Complainant states she was hired as a Registered Medical Assistant in April 2004. Complainant contends that between February and May 2008, a younger, non-Hispanic supervisor was suspended for three days based on internal complaints of her using racial slurs. Complainant states that when this co-worker returned to work she was mandated to go to the Employee Assistance Program for sensitivity training. Complainant further states that on June 7, 2008, she attended an event on behalf of Respondent with a supervisor. Complainant adds that she does not remember her conduct at the event because she was on medication for her disabilities. Complainant states that on June 19, 2008, she was suspended for three days with pay until Respondent could conduct an investigation into an incident that occurred on June 7, 2008. Complainant further states that on June 24, 2008, she was terminated for violating the zero tolerance policy regarding her conduct at the June 7, 2008 event. Complainant contends that Respondent did not treat her equally in terms of discipline as compared to the younger non-Hispanic supervisor.

Respondent's Position

Respondent denies all allegations of unlawful discrimination and states that Complainant was terminated for gross misconduct and repeated offensive behavior while representing Respondent at a public event. Respondent states that Complainant's behavior was so egregious that the event organizer's demanded a formal apology from Respondent.

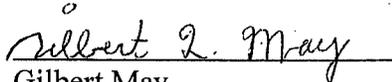
Respondent further states that it conducted an investigation into Complainant's behavior and became aware that she was under the influence of drugs, including one for which she did not have a prescription. Respondent asserts that Complainant's status as a member of several protected classes had no bearing on her termination. Respondent states that its policy stipulates that being under the influence of alcohol or drugs are grounds for immediate dismissal. Respondent further states that after Complainant's discharge, it divided the duties of her position, and hired a Hispanic female also in the protected age group and another female older than Complainant to fill those positions. Respondent asserts that Complainant's comparator was treated differently in terms of discipline because the conduct alleged was based on internal complaints and the disciplinary action was appropriate to the violation. Respondent states that Complainant's behavior occurred in public, was more egregious and was occurred while she was representing Respondent in a public event.

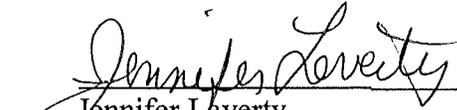
Summary of Investigation and Analysis

Based on the evidence presented Respondent has submitted non-discriminatory reasons for its actions. The evidence indicates that Complainant was terminated for engaging in inappropriate behavior while representing Respondent at a public event. The evidence indicates that Complainant admitted to being under the influence of drugs, one of which was not prescribed and not related to her disability, at the event. The evidence also indicates that Complainant was replaced with other members of her protected classification. The evidence shows that the younger non-Hispanic employee who Complainant compares herself to was subjected to appropriate disciplinary action for her infraction. The evidence also shows that employee's unacceptable conduct resulted in the filing of internal complaints and did not happen at a public event that caused the organizers to be outraged at Respondent.

Conclusion

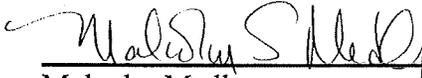
A finding of Lack of Probable Cause is recommended against Planned Parenthood of Massachusetts for discrimination based on disability, age and national origin.


Gilbert May
Investigator


Jennifer Lavery
Supervisor

Disposition

Pursuant to section 5 of M.G.L. c. 151B of the Massachusetts General Laws, and in conformity with the foregoing findings, I have this day determined that a **Lack of Probable Cause** is being rendered on this case. Complainant will be afforded the opportunity to appeal this decision.


Malcolm Medley
Investigating Commissioner

6/30/10
Date

