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Anderson v. Bessemer City

470 U.S. 564 (1985)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



70
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

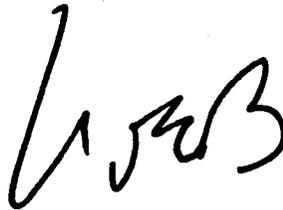
March 4, 1985

Re: No. 83-1623 - Phyllis A. Anderson v. City of
Bessemer City, North Carolina

Dear Byron,

I join.

Regards,



Justice White

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87 115-4 11111

210
371



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

January 25, 1985

No. 83-1623

Anderson v. City of Bessemer City,
North Carolina

Dear Byron,

Please join me.

Sincerely,

Justice White

Copies to the Conference

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BAW
Please join me
FW

To: The Chief Justice
Justice Brennan
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice White

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-1623

**PHYLLIS A. ANDERSON v. CITY OF BESSEMER
CITY, NORTH CAROLINA**

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT**

[January —, 1985]

JUSTICE WHITE delivered the opinion of the Court.

In *Pullman-Standard v. Swint*, 456 U. S. 273 (1982), we held that a District Court's finding of discriminatory intent in an action brought under Title VII of the Civil Rights Act of 1964, 42 U. S. C. § 2000e *et seq.* (1982), is a factual finding that may be overturned on appeal only if it is clearly erroneous. In this case, the Court of Appeals for the Fourth Circuit concluded that there was clear error in a District Court's finding of discrimination and reversed. Because our reading of the record convinces us that the Court of Appeals misapprehended and misapplied the clearly-erroneous standard, we reverse.

I

Early in 1975, officials of respondent City of Bessemer City, North Carolina set about to hire a new Recreation Director for the city. Although the duties that went with the position were not precisely delineated, the new Recreation Director was to be responsible for managing all of the city's recreational facilities and for developing recreational programs—athletic and otherwise—to serve the needs of the city's residents. A five-member committee selected by the mayor was responsible for choosing the Recreation Director. Of the five members, four were men; the one woman on the committee, Mrs. Auddie Boone, served as the chairperson.

1/24
Join

WEB

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 12, 1985

83-1623 - Anderson v. Bessemer City

Dear Harry,

I would prefer to leave the draft as it
is and will await your writing.

Sincerely yours,



Justice Blackmun

To: The Chief Justice
Justice Brennan
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES:

From: Justice White

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-1623

PHYLLIS A. ANDERSON *v.* CITY OF BESSEMER
CITY, NORTH CAROLINA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

[January —, 1985]

JUSTICE WHITE delivered the opinion of the Court.

In *Pullman-Standard v. Swint*, 456 U. S. 273 (1982), we held that a District Court's finding of discriminatory intent in an action brought under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et seq.*, is a factual finding that may be overturned on appeal only if it is clearly erroneous. In this case, the Court of Appeals for the Fourth Circuit concluded that there was clear error in a District Court's finding of discrimination and reversed. Because our reading of the record convinces us that the Court of Appeals misapprehended and misapplied the clearly-erroneous standard, we reverse.

I

Early in 1975, officials of respondent City of Bessemer City, North Carolina, set about to hire a new Recreation Director for the city. Although the duties that went with the position were not precisely delineated, the new Recreation Director was to be responsible for managing all of the city's recreational facilities and for developing recreational programs—athletic and otherwise—to serve the needs of the city's residents. A five-member committee selected by the Mayor was responsible for choosing the Recreation Director. Of the five members, four were men;

To: The Chief Justice
Justice Brennan
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice White

— Stylistic changes and pp. 4, 9 —

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-1623

PHYLLIS A. ANDERSON *v.* CITY OF BESSEMER
CITY, NORTH CAROLINA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

[January —, 1985]

JUSTICE WHITE delivered the opinion of the Court.

In *Pullman-Standard v. Swint*, 456 U. S. 273 (1982), we held that a District Court's finding of discriminatory intent in an action brought under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et seq.*, is a factual finding that may be overturned on appeal only if it is clearly erroneous. In this case, the Court of Appeals for the Fourth Circuit concluded that there was clear error in a District Court's finding of discrimination and reversed. Because our reading of the record convinces us that the Court of Appeals misapprehended and misapplied the clearly-erroneous standard, we reverse.

I

Early in 1975, officials of respondent City of Bessemer City, North Carolina, set about to hire a new Recreation Director for the city. Although the duties that went with the position were not precisely delineated, the new Recreation Director was to be responsible for managing all of the city's recreational facilities and for developing recreational programs—athletic and otherwise—to serve the needs of the city's residents. A five-member committee selected by the Mayor was responsible for choosing the Recreation Director. Of the five members, four were men;

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 19, 1985

MEMORANDUM TO THE CONFERENCE

Re: Case held for 83-1623 - Anderson v. City of Bessemer City

83-1629 - Lula B. Miller v. Mercy Hospital

This case, like Anderson, involves a ruling by the CA4 that one of Judge McMillan's findings of a Title VII violation was clearly erroneous. Because the CA4 panel that decided this case--unlike the panel that decided Anderson--seems to have been quite sensitive to the proper application of the clearly-erroneous standard, and because the evidence of discrimination in this case was much weaker than that in Anderson, I recommend that the petition be denied.

The case involved a claim of discrimination by petr, a black woman who applied to resp Mercy Hospital for a position as a Licensed Practical Nurse or a Nurse's Aid. Petr was qualified for the latter position but not the former, as she had failed the state licensing exam. Previously, she had been employed as a Nurse's Aid with another hospital and had been moved up to the position of Licensed Practical Nurse pending word of the results of her effort to pass the licensing exam. She left her previous employer after failing the exam, and filed charges with the EEOC complaining of racial discrimination at the hospital.

Petr's application for employment at Mercy was denied; the reasons for the denial are in dispute. The Mercy administrator responsible for the decision claimed that she believed that petr (with whom she had never spoken) was interested only in the Licensed Practical Nurse's position, for which she was not qualified. Petr, however, contended that she was told by the lower-level employee responsible for handling her application that the denial was due to an unfavorable report issued by her previous employer. She alleged that the report complained that she had filed discrimination charges with the EEOC, and that Mercy had refused to hire her because it regarded her as a "black troublemaker."

[Handwritten mark]

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 25, 1985

Re: No. 83-1623-Anderson v. City of Bessemer City,
North Carolina

Dear Byron:

Please join me.

Sincerely,

J.M.

T.M.

Justice White

cc: The Conference

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 28, 1985

Re: No. 83-1623 - Anderson v. Bessemer City

Dear Byron:

I would like to be able to join your opinion. I have some difficulties, however, with the dictum in the paragraph beginning at the bottom of page 8. In the dim past of my period of service on the Court of Appeals, I wrote to the effect that an appellate court was just as able to pass on situations of exclusively documentary evidence as a district court was. See United States v. Mississippi Valley Barge Line Co., 285 F.2d 381, 388 (CA8 1960).

I realize that you apparently wish to cover the waterfront in the opinion in the present case, but I, for one, would be more comfortable if we could leave the resolution of the exclusively documentary evidence situation to another day when it is presented in an appropriate case. Certainly the present case is not one of that kind.

I wonder, therefore, if you would be willing to eliminate that paragraph. If not, I shall probably write separately and concur only in the result.

Sincerely,



Justice White

cc: The Conference

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To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice Blackmun**

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-1623

**PHYLLIS A. ANDERSON, PETITIONER v. CITY OF
BESSEMER CITY, NORTH CAROLINA**

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT**

[February —, 1985]

JUSTICE BLACKMUN, concurring in the judgment.

I would like to join the Court's opinion, for I think its judgment is correct, and I agree with most of what the Court says. I, however, do not join the broad dictum, *ante*, at 8-9, to the effect that the same result is to be reached when the District Court's findings are based wholly on documentary evidence and do not rest at all on credibility determinations. In the past, I have joined at least one opinion that, generally, is to the opposite effect. See *United States v. Mississippi Valley Barge Line Co.*, 285 F. 2d 381, 388 (CA8 1960). See also *Ralston Purina Co. v. General Foods Corp.*, 442 F. 2d 389, 391 (CA8 1971); *Frito-Lay, Inc. v. So Good Potato Chip Co.*, 540 F. 2d 927, 930 (CA8 1976); *Swanson v. Baker Industries, Inc.*, 615 F. 2d 479, 483 (CA8 1980).

While the Court may be correct in its dictum today, certainly this case does not require us to decide the question. The record contains far more than documentary evidence, as the Court's opinion so adequately discloses. In a case that requires resolution of the question, I might eventually be persuaded that the Court's approach is wise. I prefer, however, to wait for a case where the issue must be resolved and where it has been briefed and argued by the parties, rather than to address the issue by edict without these customary safeguards.

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03/04

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall ✓
Justice Blackmun
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice Powell

Circulated: MAR 5 1985

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-1623

PHYLLIS A. ANDERSON, PETITIONER *v.* CITY OF
BESSEMER, NORTH CAROLINA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

[March —, 1985]

JUSTICE POWELL, concurring.

I do not dissent from the judgment that the Court of Appeals misapplied Rule 52(a) in this case. I write separately, however, because I am concerned that one may read the Court's opinion as implying criticism of the Court of Appeals for the very fact that it engaged in a comprehensive review of the entire record of this case. Such a reading may encourage overburdened Courts of Appeals simply to apply Rule 52(a) in a conclusory fashion, rather than to undertake the type of burdensome review that may be appropriate in some cases.

In this case, the Court of Appeals made no arbitrary judgment that the action of the District Court was clearly erroneous. On the contrary, the court meticulously reviewed the entire record and reached the conclusion that the District Court was in error. One easily could agree with the Court of Appeals that the District Court committed a mistake in its finding of sex discrimination, based, as it was, on fragmentary statements made years before* in informal exchanges between members of the selection committee and the applicants for the position to be filled. On the record before

*The Charlotte branch of the EEOC, with whom petitioner filed a complaint, took no action for five years. The testimony at trial, therefore, was based on stale recollections.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 8, 1985

83-1623 Anderson v. City of Bessemer City

Dear Byron:

Please join me.

Sincerely,

Lewis
~

Justice White

lfp/ss

cc: The Conference

87 11 11 11 11

201



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 24, 1985

Re: 83-1623 - Anderson v. City of Bessemer
City, North Carolina

Dear Byron:

You have persuaded me.

Sincerely,

Justice White

cc: The Conference



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 24, 1985

Re: 83-1623 - Anderson v. City of Bessemer
City, North Carolina

Dear Byron:

Please join me.

Respectfully,

Justice White

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CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

Supreme Court of the United States
Washington, D. C. 20543

January 24, 1985

No. 83-1623 Anderson v. City of Bessemer
City, North Carolina

Dear Byron,

Please join me.

Sincerely,

Sandra

Justice White

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