

Inquiries about Employee's Nationality, Use of Spanish Not Unlawful in Circumstances, Federal Court Rules

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In responding to staff complaints of a manager's conduct, pertinent questions posed by the employer about the manager's nationality and use of Spanish in the workplace did not establish a *prima facie* case of discrimination under **Title VII of the Civil Rights Act**, a federal appeals court in Philadelphia has held. **Paradoa v. Philadelphia Housing Authority**, No. 14-3191 (3d Cir. Apr. 29, 2015).

Luz Paradoa, a former manager for the Philadelphia Housing Authority ("PHA"), began supervising the work of her cousin, Angelique Martez, in 2012. Several of Paradoa's staff members complained to human resources that Paradoa bullied them and showed favoritism toward Martez. At least four staff members complained that Paradoa and Martez spoke together in Spanish about other employees.

During an investigation of the complaints, the PHA investigator allegedly asked Paradoa if she was Hispanic and if she spoke Spanish at work or around coworkers. Based on its investigation, the PHA found that Paradoa's supervision of her first cousin violated several of its anti-nepotism policies and terminated her as a result. In response, Paradoa filed claims against the PHA for discrimination in violation of Title VII, the Pennsylvania Human Relations Act, and 42 U.S.C. § 1981 (which prohibits intentional employment discrimination on the basis of race).

To establish a *prima facie* case of discrimination under Title VII, 42 U.S.C. § 1981, and the PHRA, a plaintiff must show that (1) she is a member of a protected class, (2) she was qualified for the position she sought to attain or retain, (3) she suffered an adverse employment action, and (4) the action occurred under circumstances that could give rise to an inference of intentional discrimination. This case concerned only the fourth element.

The appeals court affirmed the district court's order granting summary judgment for the PHA, finding that Paradoa had no evidence of racial bias. It was clear to the Court that the questions about Paradoa's use of Spanish pertained to the allegations that she bullied her coworkers by speaking about them in Spanish. Additionally, the question about Paradoa's nationality "might have been irrelevant, but it [did] not suggest racial animus." Lacking any evidence from which to infer discrimination, the Court found that Paradoa failed to establish a *prima facie* case.

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