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Court Upholds Immigrants' Rights in the Workplace

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In a decision that significantly broadens the legal rights of undocumented employees, a state appeals court has ruled that they are protected by California's anti-discrimination laws and can sue employers over sexual harassment and other job abuse.

The ruling marks the first time that any California court has affirmatively held that undocumented workers have the same workplace rights as other employees. Until now, employers and immigrant rights lawyers had no clear guidance on these rights, resulting in few suits being brought and some employers abusing workers with little fear of legal consequences.

Undocumented workers now can sue over such things as being paid less than minimum wage or subjected to unsafe working conditions. It is unclear if this little-noticed ruling--issued last week in a case involving a Los Angeles woman who sued over alleged sexual harassment--will actually trigger a wave of such lawsuits, given that taking such action could result in deportation.

Some employers might be discouraged from hiring and abusing undocumented workers, legal experts said. But the economic incentives for employers to hire such workers--for low-paying jobs that many other people don't want--could outweigh fear of lawsuits.

Several federal courts have previously held that undocumented workers were covered by federal labor and civil rights laws. But last week's state ruling makes it easier for workers to file these cases in California, where they can recover more in damages.

Advocates and foes of immigrant rights both praised the ruling--but for different reasons.

Attorneys for several statewide immigrant rights groups said it broadens employment protections for the armies of low-wage undocumented workers, many of whom are exploited but don't report their abuse because they fear retaliation.

The ruling "appropriately recognizes that undocumented workers have rights in the workplace," said Thomas Saenz, a regional attorney for the Mexican American Legal Defense and Educational Fund. "I hope it serves as a warning that you cannot exploit some workers' immigration status."

But critics of illegal immigration praised the ruling because they said it would discourage employers from hiring undocumented workers.

"Anything you can do to punish an employer for hiring illegal aliens is a good thing," said Ron Prince, a co-sponsor of Proposition 187, which sought to curb state benefits for illegal immigrants. "Many employers hire illegals to exploit them. If they know they could be made to pay, then they wouldn't hire them in the first place."

Complaints of Harassment

The ruling paves the way for Isella Murillo, a 27-year-old immigrant from Guadalajara, to pursue her sexual harassment suit against Rite Stuff Foods Inc., a Commerce-based company that processes potato products for restaurants and groceries.

Murillo, who worked on the assembly line, was fired from her minimum-wage position in May 1995, after only three months on the job. Rite Stuff officials said they terminated her because she and another female employee had exchanged blows on company premises.

But Murillo sued, alleging that she was fired only because she had complained, more than once, about being subjected to unwanted touching, lewd remarks and crude propositions by her immediate supervisor.

As Murillo's suit proceeded through the courts, attorneys for Rite Stuff said they discovered that Murillo had presented bogus resident alien and Social Security cards to secure her job. Citing the fake documents, they successfully asked Los Angeles Superior Court Judge James Allen Bascue to toss out the lawsuit.

But in an opinion issued last Thursday, the 2nd District Court of Appeal in Los Angeles reversed Bascue's decision.

California's "employment discrimination statutes apply to undocumented alien employees notwithstanding the illegality of employing them," wrote Justice Vaino H. Spencer for the unanimous panel.

"It may be that [Murillo] cannot complain of having lost her employment, in that she was never entitled to it in the first place," Spencer said. "[But] her fraud did not void her employment contract; it merely rendered it voidable should her employer seek to rescind it."

The opinion was certified for publication, which means that it could be cited as law in similar cases.

Alan G. Saler, an attorney for the Rite Stuff, said he was considering whether to ask the California Supreme Court to strike the opinion from the law books.

Immigration rights lawyers said the ruling now offers protection to the most vulnerable workers in California.

Undocumented employees are most at risk for exploitation, they say. Many undocumented workers, especially those in the textile, agricultural and restaurant businesses, earn less than the minimum wage. And even though some are subjected to severe discrimination and sexual harassment, they are the last to complain about egregious working conditions, the lawyers say.

Carla R. Barboza, a Los Angeles attorney who argued Murillo's appeal, said the appellate panel simply "did the right thing" by explicitly stating that undocumented workers shared the same protections as other employees.

"If these workers were not protected, unscrupulous employers would have an incentive to hire them and then victimize them," Barboza said.

Did Employer Know of Illegal Status?

A key dispute in Murillo's case centers on whether her employers knew that she was illegally present in the United States.

In sworn testimony, Murillo said that a company official, identified as Efren Atilano, knew about her illegal status. He sent her to Alvarado Street, between 7th and 8th streets, to obtain illegal documents, she testified.

It was the same Atilano who would become her supervisor and alleged harasser.

Murillo testified that Atilano would regularly proposition her to go to X-rated movies, would place his hands on her breasts and buttocks while making sexually suggestive remarks, and would grab, hug and attempt to kiss her without her consent.

To bolster Murillo's contention that Atilano helped her to secure fake employment documents, Murillo's attorneys, Maria Hanna Joseph and Eli Estrada of Santa Monica, elicited testimony from a Rite Stuff employee that company officials knew many workers were illegal immigrants yet did nothing.

Saler, the firm's attorney, denied that.

A Los Angeles Superior Court judge will now have to resolve that issue when the case returns for trial.

Indeed, the Murillo case shows the risk undocumented workers face when they step forward to confront an employer.

Attorneys for both parties in the case acknowledged that Murillo could now face deportation if she was referred to the Immigration and Naturalization Service.

Still, Barboza said the court's opinion in Murillo's case would serve a larger purpose.

"It will have a deterrent effect," Barboza said. "Employers will be less inclined to hire undocumented workers and then think they can get away with not abiding by the law."