

**Case Name:** Joyce Robinson v. Consolidated Rail Company

**Date Decided:** October 22nd, 2009

**Originally Filed in:** New Jersey (State)

**Decided by:** Pennsylvania Middle District Court (Federal)

**Court:** U.S.D.C. M.D. Pennsylvania

**Judge:** Judge Kane

**Citation:** 2009 WL 3488038

**Background:**

Plaintiff, Joyce Robinson ("Joyce"), filed an action against defendant, Consolidated Rail Company ("Norfolk Southern"), under Title VII for discrimination in the course of her employment and hostile work environment for discrimination on the basis of Joyce's race. Joyce became an employee of Norfolk Southern in June when Norfolk took over operations in Joyce's area. Joyce, as an engineer, participated in a yearly two-day safety rule training class including harassment. During this conference she was aware that Norfolk Southern had harassment reporting procedures in place involving reporting any incident to a supervisor. Joyce alleged several discriminatory acts, including being sent home for improper footwear (while a white-male coworker was merely written up). Joyce also included an occurrence of being sent home for failing to wear safety glasses, while a male counterpart merely received a noncompliance letter. Joyce also contended that over the course of her employment, she was repeatedly not allowed to use the ladies restroom in a facility but was told to use the men's or go off-site. Joyce's car was also vandalized while in the train yard, and she also noticed a flier on the bulletin board of her workplace containing intimidating remarks written about her on it, including racially motivated statements. Joyce's car was again vandalized and had carvings of "KKK" and "white power" on both doors. Norfolk Southern, following the alleged racially motivated vandalism and events, investigated each account and found no suspects. Furthermore, they installed security cameras in the yard. Joyce was terminated, as a result of her involvement of a train derailment. Joyce, however, countered arguing that the termination was strictly gender and racial based discrimination. Norfolk Southern, following an investigative hearing of the accident, determined Joyce was guilty of failing to stop short of and running through a switch, failing to announce that a train was in emergency amongst other infractions leading to the derailment. Joyce appealed her termination to a Public Law Board which affirmed her termination, noting that she had been disciplined eight more times in a period of 2.5 years. Moreover, Joyce filed three separate verified complaints against her employer with the Pennsylvania Human Rights Commission, Equal Employment Opportunity Commission. Ultimately, Joyce filed an eleven count complain in New Jersey alleging, among other things, a complaint under the Federal Employers Liability Act ("FELA"). Ultimately, Norfolk Southern moved for summary judgment

**Issue:**

Did this Court grant Norfolk's motion for summary judgment?

**Overall Issues Discussed or Touched Upon in this Case:**

- *Statute of Limitations*
- *Ruling on Summary Judgment*

**Held:**

Norfolk Southern argued, in regards to Joyce's FELA claim, that the claim is time-barred because the last alleged event of discrimination occurred more than three years before the Complaint was filed. Moreover, Norfolk argued that Joyce has not shown she was in imminent danger of physical impact. Joyce countered arguing that she did not determine her nervous breakdown was caused by the harassment within the specified time period. Joyce also alleged that she was in danger of physical harm when she saw racially statements on her car and on the bulletin board at work. This Court held that this position, the plaintiff's, did not stand. Joyce presented no evidence to determine a casual link between a nervous breakdown and the harassment at work nor has she shown sufficient evidence to show why her claim should be tolled. Accordingly this Court granted Norfolk's motion for summary judgment on Joyce's FELA claim.

**Comments:**

The plaintiff here, alleged negligent infliction of emotional distress under the FELA. However, the Court found in favor of the defendant because the plaintiff failed to present evidence that would survive summary judgment to established she was within "the zone of danger" as required under FELA.

Steve Gordon