

Boeing Can't Escape Worker's Race And Religious Bias Suit

By **Alexis Shanes**

Law360 (May 25, 2021, 7:05 PM EDT) -- A longtime Boeing human resources employee can move forward with her race and religious bias suit against the aerospace giant after a Pennsylvania federal judge found she had plausibly shown that she was blocked from promotions because she is Black and Muslim.

U.S. District Judge J. Curtis Joyner on Monday denied Boeing's motion to dismiss Vivian Martin's suit, trimming a few aspects of her failure-to-promote claim but allowing it to proceed alongside her hostile work environment and retaliation allegations.

Martin "did plead sufficient facts to show a plausible claim that she was denied the promotions for discriminatory reasons," Judge Joyner said.

Martin, who has worked at Boeing for nearly a decade and is in her 50s, claimed in her October suit that she hasn't been promoted since 2007. She said she sought at least five positions in 2019 and 2020, but the company didn't interview her and instead selected white candidates for the jobs.

In its January motion to dismiss, Boeing argued that Martin's failure-to-promote allegations weren't backed with sufficient evidence.

The company also claimed that Martin raised the assertions too late and didn't exhaust her administrative options with the U.S. Equal Employment Opportunity Commission before filing the suit.

But in addition to turning down Boeing's first theory, the court found that claims related to only two of the five promotions Martin sought were time-barred or blocked by administrative requirements.

It also tossed Boeing's argument that Martin hadn't put Boeing on notice about her hostile work environment and retaliation claims.

The hostility claim fell within the scope of discriminatory conduct Martin described in her EEOC charge, Judge Joyner said.

"Liberally construing her language and approaching it without the expectation of a legal description, the charge included sufficient information and detail of conduct reasonably amounting to a potential hostile work environment claim."

Moreover, Martin mentioned retaliation twice in the EEOC charge and wrote in an email to the agency that she was "blackballed."

Martin, who sued under Title VII, Section 1981 of the [Civil Rights Act of 1866](#) and Pennsylvania state law, claimed her white managers at Boeing made it clear that they didn't like her.

In 2009, two years after her most recent promotion, Martin was given extra responsibilities without additional compensation or proper training, she said.

Things got worse in 2011, when Martin converted to Islam and disclosed the change to her co-workers, according to her complaint. In response, supervisors and colleagues openly discriminated against Martin, she said.

A manager told Martin to her face that she would never be promoted, she claimed. Martin was pushed out of one position so a manager's family member could take it, and higher-ups threatened to fire her or place her on a performance improvement plan if she refused lateral transfers, she said.

Martin, one of the few Black employees in her department, also said managers were insensitive after a noose was found at the office. She further claimed that she was targeted with vile slurs and damage to her car.

An attorney for Martin and a spokesperson for Boeing did not immediately respond Tuesday to requests for comment.

Martin is represented by Jason Pearlman of the Pearlman Law Firm PLLC and Mark Schwartz.

Boeing is represented by Jason Elliott and Michael Pratt of Perkins Coie LLP and Aleena Sorathia of Ahmad Zaffarese LLC.

The case is Vivian Martin v. The Boeing Co., case number 20-cv-5401, in the U.S. District Court for the Eastern District of Pennsylvania.

--Editing by Neil Cohen.