

JAN 17 2008

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**CAROL MORSOVILLO,**

Plaintiff - Appellant,

v.

**CHRISTINA CHANDLER; CLARK  
COUNTY EIGHTH JUDICIAL  
DISTRICT COURT; BILL ELLIS;  
JERRY KELLER; THE LAS VEGAS  
METROPOLITAN POLICE  
DEPARTMENT; RICK LOOP;  
NEVADA EQUAL RIGHTS  
COMMISSION; NEVADA SERVICE  
EMPLOYEE'S UNION; STATE OF  
NEVADA; CHUCK SHORT; RICK  
SHORT; U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,**

Defendants - Appellees.

No. 06-15148

D.C. No. CV-00-00115-PMP/RJJ

**MEMORANDUM\***

Appeal from the United States District Court  
for the District of Nevada  
Philip M. Pro, District Judge, Presiding

Submitted December 5, 2007\*\*  
San Francisco, California

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Before: **KOZINSKI**, Chief Judge, **COWEN**<sup>\*\*\*</sup> and **HAWKINS**, Circuit Judges.

1. Ellis's conduct didn't create a hostile work environment because it wasn't frequent, severe, pervasive or directed at Morsovillo because of her sex. See Dominguez-Curry v. Nevada Transp. Dep't, 424 F.3d 1027, 1034 (9th Cir. 2005); Brooks v. City of San Mateo, 229 F.3d 917, 923–24 (9th Cir. 2000). The evidence permits no other reasonable conclusion, so the district court did not err in granting a directed verdict in Ellis's favor on Morsovillo's hostile work environment claim. See Peterson v. Kennedy, 771 F.2d 1244, 1256 (9th Cir. 1985).

2. The other defendants can't be held liable for allowing Ellis to create a hostile work environment because the work environment wasn't hostile. There's no genuine issue of material fact on this point and the district court thus properly granted the other defendants' motion for summary judgment on Morsovillo's hostile work environment claim. See Villiarimo v. Aloha Island Air, Inc., 281 F.3d 1054, 1061 (9th Cir. 2002).

---

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

<sup>\*\*\*</sup> The Honorable Robert E. Cowen, Senior U.S. Circuit Judge for the Third Circuit, sitting by designation.

3. Morsovillo can't make a prima facie showing she was discriminated against in filling the "lead bailiff" job because Morsovillo wasn't qualified for the job and Ellis was. See McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973). Summary judgment in favor of defendants on Morsovillo's failure to promote claim was proper. See Villiarimo, 281 F.3d at 1061.

4. Because Ellis's conduct didn't create a hostile work environment, the district court properly granted Ellis's motion for a directed verdict on Morsovillo's negligence and negligent supervision claims. See Peterson, 771 F.2d at 1256.

5. Ellis's comments weren't "extreme" or "outrageous," so they can't be the basis of a claim for intentional infliction of emotional distress. See Star v. Rabello, 625 P.2d 90, 92 (Nev. 1981). Thus, Ellis was entitled to a directed verdict on this claim. See Peterson, 771 F.2d at 1256.

6. All other issues weren't raised in Morsovillo's brief and are therefore waived. See Koerner v. Grigas, 328 F.3d 1039, 1048 (9th Cir. 2003).

**AFFIRMED.**