

Bond Case Briefs

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PUBLIC EMPLOYMENT - CALIFORNIA

Bailey v. San Francisco District Attorney's Office

Supreme Court of California - July 29, 2024 - P.3d - 2024 WL 3561569

Black former employee brought action against district attorney's office, former district attorney, city, and county, alleging racial discrimination, racial harassment, retaliation, and failure to prevent discrimination in violation of Fair Employment and Housing Act (FEHA).

The Superior Court, San Francisco County, granted summary judgment in favor of city. Employee appealed. The First District Court of Appeal affirmed and the Supreme Court granted review.

The Supreme Court held that:

- Isolated use of unambiguous racial epithet may be sufficiently severe to create hostile work environment under FEHA, disapproving *Aguilar v. Avis Rent A Car System, Inc.*, 21 Cal.4th 121, 87 Cal.Rptr.2d 132, 980 P.2d 846;
- Genuine issue of material fact existed as to whether co-worker's one-time use of the "N-word" was sufficiently severe so as to create hostile work environment;
- Remand was warranted to reconsider issue of city's liability for harassment under FEHA; and
- Genuine issue of material fact existed as to whether human resources representative's acts constituted course of conduct that rose to level of adverse employment action.