

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ALEKSANDRA CICHOWSKI and  
CEZARY CICHOWSKI,

OPINION AND ORDER

Plaintiffs,

05-C-262-C

v.

DONNA MUELLER,

Defendant.  
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This matter is before the court on cross motions for summary judgment on plaintiffs Aleksandra Cichowski's and Cezary Cichowski's claim that defendant Donna Mueller afforded them disparate treatment because of their national origin in violation of their equal protection rights under the Fourteenth Amendment when she attended to other individuals more quickly than she attended to plaintiffs, refused to file certain documents that plaintiffs wished to file but filed other individuals' documents and exposed plaintiffs to an urn labeled "ashes of our difficult clients." Jurisdiction is present. 28 U.S.C. § 1331.

Plaintiffs' motion for summary judgment will be denied and defendant's motion will be granted because plaintiffs have failed to produce any evidence from which a jury could find that defendant acted with a discriminatory purpose or intent.

A preliminary matter requires attention. Plaintiffs' submissions ("Plaintiffs Response to Defendant Mueller Motion for Summary Judgment, Memorandum of Law and Affidavit," dkt. #96 and the affidavits of each plaintiff, dkts. # 97-98) suffer from many of the same deficiencies as plaintiffs' recent submissions in opposition to a motion for summary judgment filed by former defendants Robert Fait and Bank of Mauston. In an order issued on June 22, 2006, I explained in detail what plaintiffs had done wrong. I will not repeat plaintiffs' shortcomings in their submissions here. In determining the material and undisputed facts, I have considered defendants' proposed findings of fact only. From these proposed facts I find the following to be material and undisputed.

#### UNDISPUTED FACTS

Plaintiffs Aleksandra and Cezary Cichowski are residents of Wisconsin. Defendant Donna Mueller is the clerk of court at the Sauk County Court in Sauk County, Wisconsin.

Plaintiffs are unhappy with the way they were treated at the Sauk County clerk of court's office. However, plaintiffs believe defendant Mueller behaved professionally when they saw her. Defendant did not comment on plaintiffs' Polish nationality or indicate that she did not like them. Plaintiffs have never seen defendant interact with any other individuals.

## DISCUSSION

To prevail on an equal protection claim, a plaintiff must prove that the defendant acted with a discriminatory purpose or intent. Minority Police Officers Assn. v. South Bend, 801 F.2d 964, 966 (7th Cir. 1986) (citing Arlington Heights v. Metro. Housing Dev. Corp., 429 U.S. 252, 264-65 (1977)). Plaintiffs' claim against defendant fails because no reasonable jury could conclude from the evidence that defendant discriminated against plaintiffs because of their national origin. Accordingly, defendant's motion for summary judgment will be granted.

It bears mentioning that plaintiffs were not prejudiced by my decision to exclude their brief and affidavits because these documents did not conform with this court's rules. Even though I did not rely on plaintiffs' submissions, I read the three documents in their entirety. Plaintiffs' version of the facts is that other individuals, including opposing counsel in matters plaintiffs were litigating in Sauk County, received preferential treatment in the clerk's office (their documents were filed even though the documents were fraudulent; they did not have to wait a long time to be helped; they were not exposed to a sign reading "ashes of our difficult clients"). According to plaintiffs, the individuals they witnessed receive preferential treatment were not Polish; they appeared to be American and spoke English with no accent. Plaintiffs argue that it follows that the reason plaintiffs were treated poorly is that defendant was discriminating against them because of their national origin. These are the same

allegations and arguments that plaintiffs set forth in their complaint. In an order dated January 13, 2006, dkt. #70 at 9-11, I concluded that plaintiffs had alleged facts sufficient to state a claim and defeat defendant Mueller's motion to dismiss. However, in the same order, I advised plaintiffs that to prevail on their claim, they would have to prove that defendant Mueller acted with a discriminatory purpose or intent. Even if plaintiffs had submitted proposed facts in an admissible format (not buried in a brief and affidavit and supported by adequate evidence), nothing in their submissions suggests that defendant discriminated against them because of their national origin. Plaintiffs assert that at their deposition, when they acknowledged that defendant "behaved professionally," they meant only that she was not overtly rude to them. Plaintiffs appear to believe that they are entitled to a trial because they have shown that they were treated poorly, even though they have no proof that the impetus for the allegedly poor treatment was their nationality. In his affidavit, plaintiff Cezary Cichowski states:

That I believe that I should not be asked to make a judgment why I was treated this way, because I am not a lawyer and not a judge. I communicated this to attorney Jardine during my deposition that I do not know why, because I am not a lawyer or a judge and this is for the judge to find out why I was treated this way. I know that I was hurt.

Contrary to what plaintiff Cezary Cichowski appears to believe, it is not this court's job to discover the motive behind defendant's conduct, whatever that conduct was. It is plaintiffs who bear the burden to prove that defendant discriminated against them because

of their national origin.

Because I have now disposed of plaintiffs' claims against all defendants in this lawsuit, I will order the clerk of court to enter judgment for all defendants and close this case.

ORDER

IT IS ORDERED that defendant Donna Mueller's motion for summary judgment is GRANTED and plaintiffs Aleksandra and Cezary Cichowski's motion for summary judgment is DENIED.

The clerk of court is directed to enter judgment for all defendants and close this case.

Entered this 29th day of June, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge