

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

OCT 22 '99

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

KMART CORPORATION,

Defendant.

CIVIL ACTION NO.  
5:98-CV-980-F(3)

FoxoB#18, PS 95

CONSENT DECREE

The Equal Employment Opportunity Commission ("Plaintiff") initiated this action on December 31, 1998, against Kmart Corporation ("Defendant"), to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"). Plaintiff alleged that Defendant engaged in unlawful employment practices at its facility in Wilson, North Carolina (hereafter "Wilson facility") when it failed to reasonably accommodate the religious practices of Delois Drummond. Defendant denies that it has violated Title VII, and further denies any and all other allegations contained in the Plaintiff's Complaint.

Plaintiff and Defendant desire to avoid protracted, expensive and unnecessary litigation. Therefore, each has agreed to the entry of this Consent Decree. This Decree, being entered with the consent of Plaintiff and Defendant, shall not constitute an adjudication or finding on the merits of the present action

and shall not be used or introduced for any purpose whatsoever in any legal proceeding, except in an action to enforce this Decree.

Neither this Decree, nor the provisions contained herein, shall be interpreted or construed as an admission by Defendant of a violation of Title VII or any other law prohibiting discrimination.

This Decree shall be final and binding upon Plaintiff and Defendant, as well as upon their respective successors, assigns, and all others acting in concert with them.

The Court has jurisdiction over the parties and the subject matter of this action. The Court has reviewed the terms of the proposed Consent Decree and in light of the pleadings and applicable laws and regulations, it has approved this Consent Decree as one which will promote and effectuate the purposes of Title VII.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. As of the date of final approval and entry of this Consent Decree by the Court, this Consent Decree is final and binding upon Plaintiff and Defendant as to all claims raised in Plaintiff's Complaint against Defendant.

2. This Consent Decree shall become effective upon its entry.

3. Defendant shall not discriminate against any applicant or employee because of his or her religion.

4. Defendant shall not discriminate or retaliate in any way against any person because of his or her: (a) participation

as a complainant or witness in this matter; (b) opposition to any practice made unlawful under Title VII; (c) filing of a charge; or (d) giving of testimony or assistance in, or participation in any investigation, proceeding or hearing under Title VII.

A. Charging Party Relief

5. Within ten (10) days after entry of this Consent Decree, Defendant shall issue a check made payable to Delois Drummond in the amount of three thousand dollars (\$ 3,000), and shall mail said check to Ms. Drummond at 200 N. Saratoga Street, Statonsburg, N.C., 27883, by certified mail, return receipt requested. Within fifteen (15) days of the date that the check is mailed, Defendant shall send a copy of the check, along with proof of its delivery, to Mindy E. Weinstein, Regional Attorney, Charlotte District Office, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, N.C. 28202.

6. Defendant shall eliminate from Ms. Drummond's personnel records, all references to the facts and circumstances surrounding the filing of the subject charge and the filing of this suit. In the event that Defendant is requested to provide an employment reference for Ms. Drummond, Defendant shall provide a neutral employment reference.

B. Policy Development and Training

7. Within thirty (30) days of the signing of this Consent Decree, Defendant shall adopt an employment policy prohibiting

discrimination in the workplace based on religion. The policy shall describe the requirements of Title VII, including:

(a) Title VII's prohibition against discrimination against any employee or applicant for employment because of the individual's religion with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment; and (b) Title VII's requirement that an employer provide a reasonable accommodation to an employee's religious practice.

8. Defendant shall provide a training program to all of its management and supervisory employees at its Wilson facility concerning the requirements of Title VII, including those requirements set out in paragraph 7 above. This training shall be completed within sixty (60) days after entry of this Consent Decree by the Court. Upon completion of the training, Defendant shall certify to the Commission the specific training which was undertaken and shall provide the Commission with a roster of all persons in attendance at the training.

C. Reporting Requirements and Notice Posting

9. Within ten (10) days of the signing of this Consent Decree, Defendant shall conspicuously post the attached Employee Notice in a place where it is visible to employees at its Wilson facility. Said Employee Notice shall remain posted for a period of no less than one (1) year from the date of posting.

D. Compliance Review

10. Defendant agrees that the Commission may review compliance with this Decree. As part of such review, the

Commission may inspect Defendant's premises, interview employees and examine and copy documents.

11. In the event that the Commission believes that a violation of this Decree has occurred, the Commission shall give notice of the alleged violation to Defendant prior to exercising any remedy provided by law. Defendant shall have thirty (30) days to investigate and respond to any allegation that a violation has occurred. Thereafter, the Commission and Defendant shall have a period of thirty (30) days, or such additional period as may be agreed upon by them, in which to engage in negotiation and conciliation regarding such allegations before the Commission exercises any remedy provided by law.

E. Term/Enforcement Jurisdiction/Costs

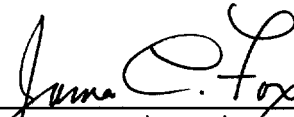
12. The term of this Decree shall be for two (2) years from its entry by the Court.

13. This Court shall retain jurisdiction of this cause for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

14. Only the parties to this suit may seek enforcement of this Consent Decree.

15. Each party shall bear its own costs and attorney's fees.

IT IS SO ORDERED, this 21<sup>st</sup> day of October, 1999.

  
\_\_\_\_\_  
Judge, U.S. District Court  
~~Western~~ District of North Carolina  
Eastern

The parties jointly request that the Court approve and enter this Consent Decree:

KMART CORPORATION

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

By: Janet Delecke

Position: Smart Corp  
Attorney

By: Mindy E. Weinstein

Regional Attorney

Linda Fox

Haynsworth Baldwin Johnson  
& Greaves LLC  
Federal Plaza Building  
400 W. Trade Street  
Charlotte, NC 28202

Lynette A. Barnes  
Senior Trial Attorney  
129 West Trade Street  
Suite 400  
Charlotte, NC 28202

**NOTICE TO EMPLOYEES**

This Notice is being posted pursuant to a Consent Decree entered in Equal Employment Opportunity Commission v. Kmart Corporation, in the United States District Court for the Eastern District of North Carolina, Western Division; Civil Action No. 5:98-CV-980-F(3).

Federal law prohibits discrimination against any employee or applicant for employment because of the individual's race, color, religion, sex, national origin, disability or age (40 and over) with respect to hiring, promotion, discipline, firing, compensation, or other terms, conditions or privileges of employment. Federal law also requires that an employer provide employees with reasonable religious accommodations. Kmart Corporation, supports and will comply with such federal law in all respects. Specifically, Kmart Corporation will seek to maintain a work environment that is free of religious discrimination and will not take any action against employees because they have exercised their rights under the law.

Kmart Corporation, has adopted an equal employment opportunity policy and will ensure that all management, supervisory and other employees abide by the requirements of that policy, and that employees will not be discriminated against on the basis of their religion.

If you believe that you have been discriminated against based on your religion or that you have been denied a reasonable religious accommodation, you should report the discriminatory conduct promptly to Kmart Corporation, or to the U.S. Equal Employment Opportunity Commission.

This Notice will remain posted for at least one (1) year by agreement with the U.S. Equal Employment Opportunity Commission.

**DO NOT REMOVE THIS NOTICE UNTIL:**\_\_\_\_\_.

(MONTH, DAY, YEAR)

\_\_\_\_\_  
Date

\_\_\_\_\_  
for Kmart Corporation