

Employment Discrimination

by Peter Reed Corbin*
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Continuing the trend begun with the 2003 survey period, the 2004 survey period experienced a significant decrease in the number of decisions by the Eleventh Circuit Court of Appeals in the area of employment discrimination.¹ On the other hand, the United States Supreme Court decided several noteworthy decisions in the employment arena. In *Pennsylvania State Police v. Suders*,² the Court addressed the important issue of whether the *Ellerth/Faragher* affirmative defense³ in hostile work environment sexual harassment cases is available when the plaintiff alleges that she was constructively discharged.⁴ In *General Dynamics Land Systems, Inc. v. Cline*,⁵ the Court, in another victory for employers, ruled that claims of so-called “reverse discrimination” are not

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1. This Article covers significant cases in the area of employment discrimination law decided by the United States Supreme Court and the Eleventh Circuit Court of Appeals during 2004. Cases arising under the following federal statutes are included: Title VII of the Civil Rights Act of 1964 (“Title VII”) (codified as amended at 42 U.S.C. §§ 2000e-2000e-17 (2000)); the Age Discrimination in Employment Act of 1967 (“ADEA”) (codified as amended at 29 U.S.C. §§ 621-634 (2000)); the Americans with Disabilities Act of 1990 (“ADA”) (codified as amended at 42 U.S.C. §§ 12101-12113 (2000)); and the Civil Rights Acts of 1866 and 1871 (codified as amended at 42 U.S.C. § 1981 (1994) and 42 U.S.C. § 1983 (2000)).

2. 124 S. Ct. 2342 (2004).

3. See *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. Boca Raton*, 524 U.S. 775 (1998).

4. *Pennsylvania State Police*, 124 S. Ct. at 2355-57.

5. 540 U.S. 581 (2004).

