COURT OF APPEALS
DECISION
DATED AND FILED

August 27, 2009

David R. Schanker
Clerk of Court of Appeals

Appeal No. 2008AP2543 **Cir. Ct. No. 2003CV12411**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

FARD MOHAMMED,

PLAINTIFF-APPELLANT,

V.

WISCONSIN INSURANCE SECURITY FUND,

DEFENDANT,

RACINE UNIFIED SCHOOL DISTRICT,

DEFENDANT-RESPONDENT.

APPEAL from an order of the circuit court for Dane County: WILLIAM D. JOHNSTON, Judge. *Affirmed*.

Before Dykman, P.J., Lundsten and Bridge, JJ.

¶1 PER CURIAM. Fard Mohammed appeals an order affirming a decision of the Wisconsin Insurance Security Fund (WISF). In 2000, Mohammed filed a state and federal complaint of discrimination against his employer, the Racine Unified School District. Mohammed pursued his claim in federal court, but ultimately litigated it before WISF after the District's insurer was declared insolvent and the Circuit Court for Dane County entered an injunction barring actions against Wisconsin insureds of the company. After an evidentiary hearing, WISF dismissed the discrimination claim. We affirm the circuit court's order upholding the WISF decision.

¶2 Beginning in September 1997, Mohammed worked for the District as a school hall monitor. He wore a head covering and "pilgrimage" ring as symbols of his Muslim faith. In August 1998, a new principal at Mohammed's school directed him to stop wearing the head covering and ring while working. In October 2000, he filed his complaint, alleging that the directive was discriminatory on the basis of race and religion. He also alleged that the district discriminated on the basis of race and religion by suspending him without pay for ten days in March 2000, and by assigning him as a front door monitor rather than roving monitor in April 2000.

¶3 In the WISF proceeding, the parties litigated whether the District violated laws protecting Mohammed's civil rights by (1) refusing to accommodate Mohammed's religious beliefs and practices by directing him not to wear his head covering and ring; (2) suspending him in March 2000 in retaliation for asserting his religious rights; and (3) discriminatorily assigning him to front door monitoring. With regard to the first issue, WISF found that the District did not refuse to accommodate Mohammed's religious beliefs and practices because there was no evidence it ever enforced the hat and ring directive. As the decision noted,

Mohammed testified that he never stopped wearing the items at work, and never received any discipline for continuing to wear them. Addressing the second issue, WISF found that the March 2000 suspension was imposed for three separate violations of employment rules and was not, as Mohammed claimed, in retaliation for asserting his religious rights. WISF also found relevant the fact that Mohammed had union representation during the disciplinary process, and did not file a grievance under the collective bargaining agreement for District employees after discipline was imposed. As for the front door assignment, WISF found no evidence that the District acted discriminatorily, instead expressly finding credible the testimony from the school principal at the time, Bryan Wright, that he assigned Mohammed to the front door because of Mohammed's experience and his abilities as a communicator.

¶4 On appeal, we review the agency's decision, not the circuit court's. ***Painter v. Dentistry Examining Bd.***, 2003 WI App 123, ¶8, 265 Wis. 2d 248, 665 N.W.2d 397. We do not substitute our judgment for the agency's if the agency's fact findings are supported by substantial evidence in the record. WIS. STAT. § 227.57(6) (2007-08).[1] Evidence is substantial if a reasonable person relying on the evidence might reach the same decision. *See* ***Bucyrus-Erie Co. v. DILHR***, 90 Wis. 2d 408, 418, 280 N.W.2d 142 (1979). Additionally, we do not substitute our judgment for that of the agency as to credibility or the weight of the evidence on any disputed finding of fact. WIS. STAT. § 227.57(6).

[1] All references to the Wisconsin Statutes are to the 2007-08 version unless otherwise noted.

¶5 Mohammed presents no grounds to overturn the administrative decision. From the undisputed fact that the District neither stopped Mohammed from wearing his hat and ring, nor disciplined him for it, WISF reasonably inferred that the District did not discriminate on that basis. From evidence that the District had undisputed substantive grounds for disciplining Mohammed in March 2000, and did so in accord with due process and collective bargaining rules, WISF reasonably inferred that the District did not discriminate by suspending him. And, after accepting as credible the District representative's testimony about the reasons for the front door assignment, WISF reasonably inferred that it was not the result of discrimination. Consequently, we must uphold WISF's determination, even if another interpretation of the evidence could reasonably support findings of discrimination. *See* ***Stein v. State Psychology Examining Bd.***, 2003 WI App 147, ¶¶33-35, 265 Wis. 2d 781, 668 N.W.2d 112 (when competing reasonable inferences are available, we must accept the inference the agency chooses to draw).

¶6 In his brief, Mohammed contends that relevant documents were "suppressed" during the administrative proceeding. He identifies two such documents, one being the United States Equal Employment Opportunity Commission's 2002 finding that there was reasonable cause to believe that the District violated Mohammed's civil rights by refusing to accommodate his religious practices, and the other being a September 2002 agreement settling Mohammed's union grievance against the District for an alleged act of religious discrimination that occurred in August 2002. Mohammed cannot reasonably contend that either document was erroneously suppressed or excluded, absent any showing that he attempted to introduce either document at the WISF hearing.

¶7 He also contends that counsel for the District intimidated one of his witnesses "into not giving a statement." Mohammed does not cite any facts in the record to support that conclusory assertion. What the record shows, instead, is that the witness in question, Genevieve Sesto, appeared at the WISF hearing and testified at length.

¶8 Finally, Mohammed contends that WISF's hearing examiner erred when he denied Mohammed's request to sequester the District's only witness, former principal Wright. The hearing examiner denied the motion because Wright was not only the District's witness, but he was also its designated representative at the hearing. Although the hearing examiner expressed some reservation about Wright's appearance as the District's representative, because the District no longer employed Wright, Mohammed fails to develop his argument that the failure to sequester Wright was error or that it prejudiced him. We therefore decline to address the argument further. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (stating that this court need not address issues on appeal that are inadequately briefed).

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.