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for the Third Circuit

1-29-2002

Charles v. Tina D'Angelo Inc

Precedential or Non-Precedential:

Docket 99-1598

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UNREPORTED - NOT PRECEDENTIAL

THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 99-1598

TRYONE A. CHARLES

v.

TINA D'ANGELO, INC., d/b/a TINA'S BRIDAL BOUTIQUE;
LEE WYCOFF, EXECUTOR OF THE ESTATE OF
TINA D'ANGELO-WYCOFF, DECEASED; LEE WYCOFF

Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

(D.C. Civil No. 97-cv-04113)

District Judge: The Honorable James T. Giles

Submitted Under Third Circuit LAR 34.1(a)
JANUARY 22, 2002

BEFORE: NYGAARD and STAPLETON, Circuit Judges,
and CAPUTO, District Judge.

(Filed

)

MEMORANDUM OPINION OF THE COURT

NYGAARD, Circuit Judge.

Tyrone A. Charles filed a complaint against appellants contending that they breached, or illegally ended, a contract with him because of his race. He is African-American. A jury returned a verdict in favor of appellants and against Charles. Appellants filed a petition to amend the judgment to add an award of attorney's fees

pursuant to 42 U.S.C. § 1988. The District Court denied their petition. We review this denial for an abuse of discretion. Finding none, we will affirm.

The Civil Rights Attorney's Fees Award Act of 1976, 42 U.S.C. § 1988, permits the court to award attorney's fees to the "prevailing party" in suits brought under the federal civil rights statutes. The district courts have been given discretion to decide whether, in their judgment, a plaintiff's claim was frivolous or groundless. In this matter, the District Court compared the "thrust of the plaintiff's contention" with the evidence he adduced at trial, and concluded that attorney's fees were not indicated. We believe the decision was within the Court's discretion, see no abuse, and will affirm.

TO THE CLERK:

Please file the foregoing opinion.

Richard L. Nygaard
Circuit Judge