

Calif. high court rules offensive language is not sexual harassment

- Bob Egelko, Chronicle Staff Writer
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(04-20) 12:58 PDT SAN FRANCISCO -- Crude sex talk and vulgar gestures by writers of the television show "Friends" did not constitute sexual harassment of a female assistant because the comments were not aimed at her or at women in general, the state Supreme Court ruled today.

In a case closely watched by motion picture and news organizations as well as women's-rights advocates, the court ruled unanimously that offensive sexual language in the workplace is not, by itself, grounds for damages under laws that prohibit sexual harassment and discrimination.

"While (state law) prohibits harassing conduct that creates a work environment that is hostile or abusive on the basis of sex, it does not outlaw sexually coarse and vulgar language or conduct that merely offends," said the opinion by Justice Marvin Baxter.

To prove harassment, he said, a plaintiff must show that the comments were so extreme or frequent that they created a hostile atmosphere at work, for her or for other women. One reason that can't be shown in this case, Baxter said, was that the setting was "a creative workplace focused on generating scripts for an adult-oriented comedy show featuring sexual themes."

In addition, he said, there was no evidence that the comments were aimed at women or that men and women were treated differently.

The court sidestepped an underlying issue in the case: whether a harassment suit based on comments and behavior during the creative process would violate freedom of expression. While Baxter said there was no need to decide that issue, Justice Ming Chin, in a separate opinion, called such lawsuits "a clear and present danger to fundamental free-speech rights," at least when they do not involve harassment aimed at the plaintiff.

The suit was filed by Amaani Lyle, who worked as a writer's assistant on "Friends" for four months in 1999. In her suit, filed in 2002, she said she had been continually offended by three male writers' conversations about sex during their meetings.

Lyle said the writers talked about their own sex practices, used vulgar terms for female and male anatomies, speculated about the sex lives of the actresses on the show and fantasized about having sex with one of them, and pantomimed masturbation.

She acknowledged that none of the comments were directed at her and that she had been advised, when hired, that the writers would joke about sex. But she claimed in her lawsuit that the writers' talk and actions were so frequent and extreme that they made the workplace oppressive.

A state appeals court ruled in 2004 that Lyle had offered enough evidence to go to trial. The state's high court disagreed today and ordered the suit dismissed.

The case is Lyle vs. Warner Brothers Television Productions, S125171. The case is Lyle vs. Warner Brothers Television Productions, S125171.