



rapper's (un)delight: ninth circuit holds blaring rap music in the workplace can support sex harassment claim

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In a recent decision, the Ninth Circuit Court of Appeals addressed the issue of music-as-harassment in the workplace. The court recognized the impact of "sexually graphic, violently misogynistic music" in creating a hostile work environment, ruling that it could be grounds for a Title VII claim. The court's ruling emphasizes the importance of addressing offensive conduct and provides guidance for employers on preventing workplace harassment.

The case, *Sharp v. S&S Activewear, LLC*, involved eight former employees, including seven women and one man, who alleged that their employer allowed the routine playing of music with derogatory lyrics throughout their workplace. The plaintiffs claimed that the music denigrated women, contained offensive terms, and glorified violence towards women. Additionally, they asserted that male employees were inspired to engage in sexually explicit gestures, make offensive remarks, and share pornographic videos, further creating a hostile work environment.

The district court initially dismissed the employees' claim, stating that since the music offended both men *and* women, it could not form the basis of a sexual harassment claim. The district court argued that the employees failed to demonstrate targeted mistreatment towards a specific individual or group. However, the Ninth Circuit rejected this view, noting that individual targeting is not necessary to establish a Title VII violation and that workplace conduct should be examined cumulatively and contextually. Furthermore, the Ninth Circuit emphasized that an employer cannot evade responsibility by fostering a broadly hostile and offensive work environment.

The Ninth Circuit's recognition of music-as-harassment as a viable claim under Title VII underscores the significance of maintaining a respectful work environment. In light of this ruling, employers should consider taking proactive

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measures to address workplace harassment. This includes revisiting anti-harassment policies to explicitly address the use of offensive music and other multimedia, conducting regular training sessions to educate employees and especially supervisors on recognizing and preventing harassment, and actively monitoring the workplace environment for potential sources of harassment, such as offensive music.