

**EQUAL OPPORTUNITIES COMMISSION
CITY OF MADISON
210 MONONA AVENUE
MADISON, WISCONSIN**

<p>Willie Joe, Jr. 2946 Milwaukee Street Madison, Wisconsin 53704</p> <p style="text-align: center;">Complainant</p> <p style="text-align: center;">vs.</p> <p>Sunny Knoll Liquor, Inc. 3158 Milwaukee Street Madison, WI 53704</p> <p style="text-align: center;">Respondent A</p> <p>Charles Rodefeld 4464 Sprecher Road Madison, WI 53704</p> <p style="text-align: center;">Respondent B</p>	<p>RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER</p> <p>Case No. 3070</p>
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A complaint was filed with the Madison Equal Opportunities Commission (MEOC) alleging discrimination on the basis of race in regard to public accommodations. Said complaint was investigated by MEOC Human Relations Investigator Renee Caldwell (presently Renee Payne) who issued an initial Determination dated April 8, 1980 finding probable cause to believe that the Respondent discriminated against the Complainant as alleged.

Conciliation failed or was waived and the matter was certified to public hearing. A hearing was held on August 26, 1981 (after numerous delays, some as a result of the Complainant and some as a result of the Respondent). The Complainant appeared in person (pro se). Both Respondents were represented by Attorney Richard A. Heilprin of Heilprin Law Offices, and Respondent Rodefeld also appeared in person. Based on the record of the hearing, the examiner proposes the following Recommended Findings of Fact, Conclusions of Law and Order:

RECOMMENDED FINDINGS OF FACT

1. The Complainant, Willie Joe, Jr., is an adult Black male residing in the State of Wisconsin.
2. Respondent A, Sunny Knoll Liquor, Inc., is a corporation operating a liquor store at 3158 Milwaukee Street in the City of Madison.
3. Respondent B, Charles Rodefeld, is an adult male who was employed by Sunny Knoll Liquor, Inc. in 1980.
4. On March 1, 1980, the Complainant entered Respondent A's liquor store with a blind companion and charged some alcoholic beverages. Respondent B permitted the charges after strong verbal insistence by the Complainant.
5. On the evening of March 3, 1980, the Complainant entered Respondent A's liquor store and represented to Ms. Barbara Peterson, Respondent B's sister-in-law and an employee of Respondent A, that Respondent B had given him permission to charge items at the store. Ms. Peterson subsequently permitted the Complainant to charge some alcoholic beverages. Respondent B was absent from the store at the time.

6. The Complainant had never received permission from Respondent B to charge any items at Respondent A's liquor store other than what was charged on March 1, 1980. Ms. Peterson was chastised by Respondent B on March 4, 1980 for having, on the previous evening, charged items to the Complainant.
7. On the evening of March 4, 1980, approximately five minutes prior to closing at 9:00 p.m., the Complainant walked into Respondent A's liquor store carrying a television and accompanied by an associate. After setting the television down, the Complainant and his associate walked to the area where the beer was located. At some point, Respondent B reminded the Complainant that he owed some money for his previous charges. The Complainant paid for the charges with a twenty dollar bill. The previous charges amounted to \$3 or \$4.
8. The Complainant then attempted to charge a six-pack of beer. A discussion with Phyllis Rodefeld, Respondent B's wife, who was cashiering then ensued. Despite the Complainant's insistence, Ms. Rodefeld refused to permit the Complainant to charge the beer. The Complainant questioned whether her refusal was on account of his race, which Ms. Rodefeld denied.
9. Respondent B then intervened and an argument between him and the Complainant ensued. During the course of the argument, Respondent B stated that, "I do not like Blacks in my store", "I ought to kick your black ass", and "You are the same Black boy who stabbed me in December."
10. As the Complainant was leaving, Respondent B grabbed him on the arm. The Complainant states now that he would have begun a physical fight with Respondent B except that a dog was present in the store which the Complainant feared would have harmed him.
11. Respondent B, except for the Complainant, charged to four or five other persons, two of whom were Black: Jonathan Bird and Ollie Williams. Respondent B generally permitted charges only to persons he had known for at least two or three months. Respondent B refused to charge to Bird's cousin, who was Black, because he had known the cousin for only a few days.
12. The Complainant picked up his television set and he and his companion left Respondent A's liquor store at approximately 9:10 p.m. on the evening of March 4, 1980, 10 minutes after the store could no longer legally sell liquor.

RECOMMENDED CONCLUSIONS OF LAW

1. The Complainant is a member of a protected class, race, within the meaning of Section 3.23, Madison General Ordinances.
2. Respondent A is a corporation within the meaning of Section 3.23, Madison General Ordinances.
3. Respondent B is a person within the meaning of Section 3.23 Madison General Ordinances.
4. The liquor store operated by Respondent A at 3158 Milwaukee Street in the City of Madison is a place of public accommodation within the meaning of Section 3.23, Madison General Ordinances.
5. Both Respondent A and Respondent B discriminated against the Complainant in violation of Section 3.23(5) (a) by subjecting him to verbal abuse on account of his race while the Complainant was patronizing Respondent A's liquor store. Such verbal abuse denied the Complainant full and equal enjoyment of public accommodations on account of his race.

RECOMMENDED ORDER

That both Respondent A and Respondent B shall cease and desist from discriminating against the Complainant on the basis of his race in regard to the full and equal enjoyment of public accommodations.

OPINION

There is no dispute that the Respondents' failure to serve the Complainant is not an issue. The Complainant challenges only the verbal comments and physical contact as discriminatory.

Regarding the verbal comments, the issue is one of credibility. It essentially is a matter of whether Mr. Joe's testimony or that of Mr. Rodefeld is more credible. Mr. Joe's companion did not testify, and Ms. Rodefeld has an unclear recollection of the conversation. The latter two persons were the only other witnesses to alleged comments.

I resolve the credibility issue regarding the verbal comments in favor of the Complainant. I find it unlikely that he could have fabricated the statement "You are the same Black boy who stabbed me in December," and generally find his version of the conversation and/or argument between himself and Mr. Rodefeld more believable. Mr. Rodefeld's testimony regarding the length and nature of the conversation and arm-grabbing incident conflicts somewhat with that of his wife, Ms. Rodefeld, who also testified on the Respondent's behalf. I find Mr. Rodefeld's denial of making the various statements (recited in Finding of Fact 9) to be self-serving.

I do not find the arm-grabbing (see Finding of Fact 10) to be discriminatory, as the evidence presented indicates that Mr. Rodefeld was attempting to shake Mr. Joe's hand and depart on a friendly note.

Mr. Bird, a Black male, testified that he is a friend of the Rodefeld family and that Mr. Rodefeld has extended credit to him. While it is nice to know that Mr. Rodefeld has a friend who happens to be Black, Mr. Bird's testimony has little, if any, probative value regarding what occurred between Mr. Rodefeld and Mr. Joe.

Overall then, I find that both Respondents discriminated against the Complainant by making verbally abusive racial remarks and consequently denying him equal enjoyment of public accommodations on account of his race (see Recommended Conclusion of Law 4). Although the Complainant had a part in provoking the argument, the type of comments made to him are not to be tolerated under any conditions. However, under the circumstances as recited in the Recommended Findings of Fact, I determine that no order beyond cease and desist is appropriate. Signed and dated this 18th day of September, 1981.

Signed and dated this 18th day of September, 1981.

Allen T. Lawent
Hearing Examiner