

affirmed Balele v. DHFS, 99-0002-PC-ER, 5-31-2000

affirmed by Dane County Circuit Court, Balele v.

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00 CV 2206, 7-30-01

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**WISCONSIN COURT OF APPEALS**

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**DISTRICT IV**

May 21, 2002

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You are hereby notified that the Court has entered the following opinion and order:

01-2418

Pastori M. Balele v. Wisconsin Personnel Commission and  
Department of Health & Family Services (L.C. # 00-CV-2206)

Before Dykman, Roggensack and Lundsten, JJ.

Pastori Balele appeals a circuit court order which affirmed the Wisconsin Personnel Commission's (WPC) determination that the Department of Health and Family Services (DHFS) did not discriminate against Balele on the basis of race when it hired another applicant for a Quality Assurance Manager position. Although the subject of our review is WPC's decision rather than that of the circuit court, we may benefit from the circuit court's analysis. Here, the circuit court thoroughly explained why there was sufficient evidence in the record to support WPC's finding that DHFS had hired a candidate more qualified than Balele, and why it was reasonable for WPC to conclude that the hiring decision did not constitute employment

discrimination under either a disparate treatment or disparate impact theory.<sup>1</sup> We are satisfied that the circuit court's memorandum decision and order identifies and applies the proper legal standards for employment discrimination to the relevant facts and reaches the correct conclusion. We therefore incorporate into this order that portion of the circuit court's decision discussing Balele's disparate treatment and disparate impact claims, and summarily affirm on that basis. WIS. STAT. RULE 809.21 (1999-2000); Wis. Ct. App. IOP VI(5)(a) (Mar. 1, 2002).

IT IS ORDERED that the circuit court's order is summarily affirmed under WIS. STAT. RULE 809.21.

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*Cornelia G. Clark*  
*Clerk of Court of Appeals*

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<sup>1</sup> The trial court also addressed Balele's contention that the hiring decision violated his due process and property rights. We do not address that issue, however, because it is outside the scope of the issue the WPC was asked to decide under the Wisconsin Fair Employment Act.