[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 15-13660
Non-Argument Calendar

D.C. Docket No. 1:12-cv-23868-EGT

ASTRID ELENA CARRILLO BARRAZA,

Plaintiff - Appellant,

versus

FRANCISCO BORJA MARTINEZ PARDO,
ANA MATIAS,

Defendants - Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(March 10, 2016)

Before MARCUS, WILLIAM PRYOR and JULIE CARNES, Circuit Judges.

PER CURIAM:

Plaintiff-Appellant Astrid Elena Carrillo Barraza appeals the district court's order granting a Renewed Motion for Judgment as a Matter of Law in favor of Defendants-Appellees Francisco Borja Martinez Pardo and Ana Matias, in

Barraza's action asserting minimum wage claims under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. ("FLSA") and Fla. Stat. § 448.110. On appeal, Barraza argues that the district court applied the wrong federal regulation and that the jury's finding was supported by the record. After thorough review, we affirm.

We review the district court's grant of a motion for judgment as a matter of law de novo, and apply the same standards employed by the district court. Abel v. Dubberly, 210 F.3d 1334, 1337 (11th Cir. 2000) (citation omitted). "In doing so, we consider all the evidence in the light most favorable to the non-moving party, and independently determine whether the facts and inferences point so overwhelmingly in favor of the movant . . . that reasonable people could not arrive at a contrary verdict." Webb–Edwards v. Orange Cty. Sheriff's Office, 525 F.3d 1013, 1029 (11th Cir. 2008) (quotation omitted). Judgment as a matter of law is appropriate "when the facts are sufficiently clear that the law requires a particular result." Weisgram v. Marley Co., 528 U.S. 440, 447 (2000) (quotation omitted).

The relevant facts are these. In 2007, Pardo hired Barraza as a housekeeper in Columbia. In 2008, Pardo moved to Miami and offered to bring Barraza to continue her employment. Pardo prepared an employment contract so that Barraza could obtain a United States work visa, which Barraza signed on October 20. The contract provided, in relevant part, that Barraza was to "carry out domestic chores such as cleaning, ironing, food preparation, child care, clothes washing and all the

chores attached to the home." She was to work "8 hours daily, with 1 day off each week." In return, Pardo agreed to pay a monthly salary of $1,440, and to provide Barraza with food and lodging in his home equivalent to $300 a month. Overtime work performed in the evening, on Sundays or on holidays was to be compensated at $7.50 per hour. Pardo also promised to provide Barraza with roundtrip airfare to Columbia. Barraza was employed under this contract from December 27, 2008, to October 20, 2012. At the end of each year, Barraza and Pardo sat down and reviewed the amount of money Pardo had paid Barraza in salary and loans. Each year, Barraza concluded she owed Pardo money, offered to pay Pardo, and ripped up her records after settling the account. Pardo married Matias in 2011.

On October 24, 2012, Barraza filed this action in the United States District Court for the Southern District of Florida alleging minimum wage violations contrary to the FLSA. She claims she worked an average of 73 hours per week, for which she was compensated the equivalent of only $4.10 per hour. The district court denied Pardo's motion for summary judgment on December 4, 2013, having determined that "[w]hile the contract may be some evidence of the hours [worked], . . . the facts relevant to determining the compensable hours are highly disputed."

The case proceeded to trial, and a jury verdict was reached on March 18, 2015. The jury determined that the contract did not suffice as a reasonable agreement to compensate Barraza for the work she provided on behalf of Pardo,

and that Barraza was entitled to $10,006.67 in damages.[1] On July 20, 2015, however, the district court granted Pardo's renewed motion for judgment as a matter of law. The court held that because the contract was, in fact, reasonable, it was unnecessary to calculate the actual number of hours worked. The contract was reasonable, the court said, because Barraza "presented no evidence that the agreement provided insufficient time to perform her duties at Defendants' home."

Whether Pardo has established that their agreement was reasonable is central to the case because it would obviate the need for a precise hour-by-hour accounting of how much time Barraza worked. The relevant federal regulation provides:

> An employee who resides on his employer's premises on a permanent basis or for extended periods of time is not considered as working all the time he is on the premises. Ordinarily, he may engage in normal private pursuits and thus have enough time for eating, sleeping, entertaining, and other periods of complete freedom from all duties when he may leave the premises for purposes of his own. It is, of course, difficult to determine the exact hours worked under these circumstances and any reasonable agreement of the parties which takes into consideration all of the pertinent facts will be accepted. This rule would apply, for example, to the pumper of a stripper well who resides on the premises of his employer and also to a telephone operator who has the switchboard in her own home.

29 C.F.R. § 785.23.

Barraza claims that § 785.23 is inapplicable to a housekeeper who resides in the house that she is employed because it is not difficult to determine the hours

[1] Since the FLSA provides for liquidated damages, final judgment was doubled to $20,013.34.

worked when the employee lives and works where the employer also resides, such that the employer will often be around to monitor the employee's work. We are unpersuaded. For starters, there is no evidence that an employer like Pardo is regularly able to monitor his housekeeper's hours. To the contrary, the record indicates that Pardo spent substantial time away from home. Second, the proper focus of § 785.23 is not whether the employer is available to monitor the employee -- which could be either greater or lesser for live-in housekeepers relative to other forms of employment -- but whether work time can feasibly be distinguished from leisure time. Because personal time and work time may often prove difficult to distinguish for live-in housekeepers, § 785.23 recognizes that a reasonable agreement absolves the need for hour-by-hour recordkeeping.[2]

In the alternative, Barraza claims that her contract with Pardo was not reasonable. She says that the reasonability of the contract must be determined by considering the number of hours actually worked. However, this interpretation is contrary to the clear purpose of § 785.23, which eliminates the need to calculate the number of hours actually worked when doing so is likely to be especially difficult. Barraza's approach would embroil litigants in the very controversy that § 785.23 was intended to avoid. See Garafolo v. Donald B. Heslep Assocs., Inc.,

[2] The Department of Labor amended its regulations effective January 1, 2015, to require precise recordkeeping for live-in domestic service employees. See 29 C.F.R. 552.102. The events in this case, however, predate this change.

405 F.3d 194, 200 (4th Cir. 2005) (holding that a reasonable agreement existed between the parties pursuant to § 785.23, and therefore, "[s]tanding alone, proof that the Garafolos worked more than 40 hours per week would not preclude summary judgment") (persuasive authority).

Barraza also argues that the agreement was not reasonable because it was drafted for the purpose of obtaining a work visa. But the fact that Pardo sought to procure lawful immigration status for his housekeeper does nothing to discount the reasonableness of the contract. On the contrary, favorable review of the agreement by the United States Consulate weighs in favor of the agreement's reasonableness. Pardo employed Barraza as a housekeeper in Columbia for a year before moving to the United States, making Barraza well suited to determine the reasonability of the employment contract she signed in 2008. If Pardo subsequently refused to adhere to the plain terms of that contract, Barraza's remedy must be found somewhere other than in a minimum wage claim. Because the contract reasonably anticipated that 48 hours a week would be sufficient for Barraza to complete her domestic chores, the district court did not err in concluding that § 785.23 precludes recovery for minimum wage violations as a matter of law.

AFFIRMED.