Supreme Court Sides with Reservist in Job Discrimination Suit, Bolsters USERRA

By Mathew B. Tully

The nation's highest court on Tuesday armed reservists with a shield to protect them against co-workers who are bitter over service members' military obligations and try to undermine their civilian employment.

In a decision that bolsters protections under the Uniformed Services Employment and Reemployment Rights Act, the U.S. Supreme Court ruled that employers can be held liable for employment discrimination when an employee with discriminatory motivations influences a firing, or other discriminatory act, even though he or she is not the final decision maker.

The case, Vincent E. Staub vs. Proctor Hospital, involves Vincent E. Staub, who worked as an angioplasty technician at Proctor Hospital in Peoria, Ill. up until 2004, when he was fired for allegedly not following company rules. Staub was also a member of the U.S. Army Reserve, which required him to drill one weekend per month and to train full time for two to three weeks a year.

Two supervisors at the hospital became frustrated with and hostile to Staub because they had to make operational adjustments to accommodate for his military obligations. One of these supervisors imposed a corrective action against Staub, for what Staub contended was an unfounded reason, and then later reported him to a hospital executive for failing to comply with the corrective action. As a result of this complaint, Staub was fired by a hospital executive.

After unsuccessfully trying to challenge his termination through the hospital grievance process, Staub filed suit again Proctor under USERRA and alleged that hostility to his military obligations motivated his discharge. A jury decided in favor of the reservist and awarded him $57,640 in damages. However, the 7th Circuit Court of Appeals reversed this ruling saying the hospital could not be held liable for the hostility of a supervisor who did not make the final employment decision.

The appellate case highlighted what is known as "cat's paw liability." The term takes its name from the fable by Aesop in which a monkey convinced a cat to stick its paw in a fire to pull out some chestnuts, which the monkey later runs off with while the cat nurses a burned paw. In this case, Staub's hostile co-workers are the monkey and the hospital's vice president of human resources is the cat as he was essentially talked into carrying out the discriminatory action.

The 7th Circuit said that because Staub's non-decision-making co-workers had not singularly swayed the decision-making vice president so much that the termination decision was the product of "blind reliance," the case did not satisfy the criteria for cat's paw liability. The Supreme Court, however, disagreed and sent the case back to the lower court to either

reinstate the jury’s verdict or to conduct a new trial based upon the Supreme Court’s ruling.

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