

Employee who said he would testify in a co-worker's EEOC discrimination case is protected against retaliation

The Sixth Circuit Court of Appeals in Ohio recently ruled that an employee who supported a co-worker's racial discrimination complaint is protected from retaliation by his employer.

The holding in this case follows precedents in the Tenth Circuit. For example, see *Peterson and Mooney, et al v. Utah Dept. of Corrections* (10th Cir. 1998), p. 5.

The Facts of the Case

In June 1995, Crown Motor Company, Inc. in Ohio hired Donald Abbott, a white man, as an automotive technician. Nine months later, Crown hired Donald Crump, a black man, as an automotive detailer.

On July 8, 1997, Crump filed a racial discrimination complaint with the Equal Employment Opportunity Commission (EEOC) alleging that two of his white supervisors, Scott Morrison and Jim Purnell, had harassed him and denied him work hours. Crown immediately launched an internal investigation. At a company meeting, Crown announced the complaint and requested any witnesses to come forward. Abbott came forward, informing Morrison that he had witnessed Purnell's use of racial slurs and that he would testify to that in court. Purnell was fired the following day.

In March 1998, Crump withdrew his discrimination charges against Crown because the racial slurs had stopped. In July 1998, Crump resigned to take a better job. In his deposition, Crump claims that Morrison said that he would "get back at" those people who had supported the discrimination charges.

In August 1998, for about four weeks, the lift in Abbott's work bay was broken. Abbott was forced to cart his

tools back and forth to another bay. Morrison alleged that Abbott had complained repeatedly about the broken lift, engaged in disruptive conduct, and demanded to be sent home with pay until the lift was fixed. On August 28, Morrison fired Abbott for insubordination.

According to Abbott, a few days after his termination, a Crown representative told him that he had been fired because he "had put his nose in other people's business." Abbott understood this to mean that Crown had fired him for his participation in Crump's discrimination case.

Abbott sued Crown for illegal retaliation under Title VII of the Civil Rights Act of 1964 which prevents an employer from discriminating against an employee for making an EEOC charge or participating in an EEOC investigation.

The district court dismissed the suit, explaining that Abbott had not demonstrated a "causal connection between the protected activity and the adverse employment action." Abbott appealed the case.

The Sixth Circuit Court of Appeals reversed the lower court's decision, stating that Abbott had presented sufficient evidence to connect the protected activity with his termination. The court said, "Today, we hold that Title VII protects an employee's participation in an employer's internal investigation into allegations of unlawful discrimination where that investigation occurs pursuant to a pending EEOC charge." The lawsuit was sent back to district court for trial.

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