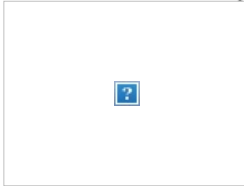


WAS IT RACIAL DISCRIMINATION OR A BACK INJURY?



A man sued the company where he was formerly employed, claiming racial discrimination. However, testimony that he had given four months earlier with regard to another lawsuit contradicted his claims of discrimination. The plaintiff began working as a contract welder for Oil States Skagit Smatco in March of 2008 but left three months later. The man, an African American, alleged that he was subjected to racially disparaging conduct, including graffiti and a noose on display. He additionally stated that he was in fear of his life, as heavy parts were sometimes dropped in his proximity. As a result, he resigned from his job, as he felt he had no other choice but to quit. This is known as constructive discharge, or constructive dismissal, and was one of the man's claims in court. In June of 2009, he filed a complaint against Oil States in the U.S. District Court for the Eastern District of Louisiana, alleging violation of Title VI of the Civil Rights Act of 1964. He testified in May of the following year that racial discrimination was his reason for leaving. But he claimed an entirely different reason the previous January, in a personal injury lawsuit against State Farm Mutual Automobile Insurance Company. He stated that an automobile accident in 2008 had him in such back pain that he could no longer work. In both testimonies, he explicitly stated that



each reason was the sole motivation for resigning.

Oil States learned of the conflicting testimonies and, believing that the man had perjured himself, requested that the court dismiss the claims with prejudice to avert additional litigation. The man acknowledged the contradictory statements and further agreed that the constructive discharge claim should be dismissed, but not the claim of racial discrimination. The judge filed a report recommending dismissal of the claims, stating that "not everyone... will be caught. When it is discovered, the penalty needs to be severe enough to deter such conduct." The man filed an objection to the report, but neither he nor his attorney was present at a scheduled hearing. The counts were subsequently dismissed with prejudice. On appeal, the man argued that it was "an abuse of discretion" for the court to dismiss both counts and to deny the man a hearing to explain his conflicting testimonies. His lawyer also claimed that the judge "had personal knowledge of disputed facts" and should have been recused. The appeals court agreed that the man had committed perjury, noting that he intentionally omitted information to "bolster" each lawsuit. It likewise saw no "abuse," as dismissal with prejudice was the only option: a monetary sanction could not be granted, as he could not afford to pay his own attorney, and dismissing only one count would allow the man to not be penalized for perjury. The court similarly found no merit in the complaint of the man's denied hearing, nor in the recusal request, as the judge garnered her information from judicial proceedings. The appeals court affirmed the district court's ruling.