FORMER DRIVER ARGUES THAT COMPANY RETALIATED AGAINST HIM

A driver working in Atlanta was suspended after two warnings and then fired due to "insufficient work" for the company's senior employees. He claims that his termination was in response to complaints of allegedly discriminatory employment practices. So was it retaliation? The man had only been working at Atlanta Peach Movers, Inc. for a month when his operations manager issued him a warning for "inappropriate behavior" and failure to follow instructions. The driver was issued another warning three weeks later, this time for reportedly leaving his keys in an unlocked van for the duration of a weekend. He was suspended for a week. The same day, the man faxed a letter the company's owner, complaining of the suspension, blaming another employee for leaving the keys in the van and asserting that both warnings from his manager were unfair. On July 14, 2009, the company issued a letter, informing the man that he was being terminated. On the day that he was fired, the man wrote a letter to the EEOC (Equal Employment Opportunity Commission), claiming that he'd lost his job for challenging "unlawful employment practices." A formal charge of retaliation was filed with the EEOC on July 22nd. A subsequent complaint in state court alleged a violation of Title VII of the Civil Rights Act, with an affidavit asserting that the man had publicly opposed the company's alleged discrimination at the weekly Monday meeting – the day before he was fired. The district court granted summary judgment in favor of Atlanta Peach Movers, believing that the plaintiff had failed in proving that he had engaged in activity protected by Title VII. His appeal made a claim to protected activity with four points: his objection to the two warnings from the manager; his letter to the owner; voicing his complaints at the Monday meeting; and his two EEOC complaints. He claimed that the company retaliated against him for each of these actions. Showing a prima facie case – one suitable for a jury to hear – of retaliation requires proof of engagement in protected activity, adverse action and a causal link between the two. Appellate judges, like the district court, did not believe that the man could support evidence of discriminatory behavior prior to his termination. His complaints of the warnings, including his letter to the owner, did not suggest any discrimination against Title VII protections. Likewise, the appeals court considered the assertion in his affidavit – public opposition to reportedly discriminatory practices – "too vague and conclusory." In other words, he didn't specify any particular point of discrimination. The court further noted that, even if the warnings were unfair, it doesn't necessarily prove a Title VII violation. The EEOC complaints in support of retaliation were dismissed. Although the company's payroll had the man working a few hours on July 15th – the day after the termination letter was drafted – the plaintiff's July 14th letter to the EEOC made a reference to his termination. Therefore, the company would have been unaware of the EEOC complaints when making the decision to fire the driver. The appeals court affirmed the district court's ruling.