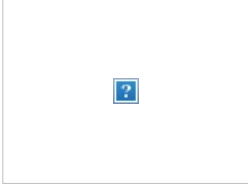


NURSING ASSISTANT HARASSED DURING LUNCH PRAYER: DID HER EMPLOYERS RETALIATE?



A woman working as a nursing assistant in Mississippi claimed that she was criticized and harassed by co-workers for praying during her lunch breaks. She further alleged that her subsequent termination was the result of religious discrimination and retaliation for complaining of her fellow employees' conduct. She took her argument to court. The woman was hired by Singing River Health Systems in February 2009. The following month, she lodged a complaint with her floor manager over the co-workers' reported criticisms and harassment concerning her lunch prayer. Shortly thereafter, she requested but was denied additional training. In May 2009, the woman was suspended with a recommendation for discharge for poor performance and insubordination. She was fired several days later. The ensuing lawsuit claimed violations of Title VII of the Civil Rights Act and 42 U.S. Code § 1983 (deprivation of rights). She alleged discrimination based on her religion, a hostile work environment and retaliation. An additional state law claim included a charge of intentional infliction of emotional distress. Singing Rivers made a motion for summary judgment, asserting that its reasons for firing her were legitimate: she failed to follow nurses' instructions regarding patient care, and after her manager denied her request for additional training, she attempted to obtain the training from another individual. The district granted the company's motion and dismissed the woman's complaints with prejudice.



On appeal, the plaintiff centered her arguments on proving discrimination and retaliation, leaving the claims of a hostile work environment and a failure to accommodate unchallenged. In order for a person to prove employer retaliation, three things must take place: the plaintiff establishes a case of discrimination with enough evidence that a jury could hear the case; the defendant(s) counters with a legitimate, nondiscriminatory reason for its action; and the plaintiff shows that the proffered reason was merely a pretext for said action. Appellate judges, as well as the district court, did not believe that the woman was able to satisfy the initial point – substantiating a basic case of discrimination. The appeals court likewise was not swayed by the woman's assertion that Singing Rivers' reasons for termination were "false" and "unworthy of credence." Furthermore, the plaintiff's essential argument was that her actions could not genuinely be considered insubordination, in lieu of refuting what the company had cited as behavior leading to her firing. The appeals court also considered the state law claim of intentional infliction of emotional distress. In support of the claim, the woman stated that the company's actions were "extreme and outrageous." Judges referred to her argument as a "bare assertion" and called it "conclusory" – in other words, the woman was making her point without supporting it with any facts. Her arguments on appeal were attempts to substantiate a case of retaliation but failed to overcome her true obstacle in court: showing that the district court had erred in its grant of summary judgment. Accordingly, the appeals court affirmed the district court's ruling.