

## MECHANIC CITED 28 DISCIPLINARY MARKS -- WAS IT DISCRIMINATION?



A mechanic working for the Forest Preserve District (FPD) in Cook County, IL, received 28 disciplinary marks from his supervisor and was demoted to a lower-paying job. He brought action against the FPD, alleging retaliation for complaints of discrimination – from the very same supervisor issuing all those disciplinary action forms. The man, who is black, received the 28 marks over the course of approximately two years, each citation either from his supervisor directly or with the supervisor’s authorization. The supervisor claimed that the mechanic took too long to complete tasks, wasn’t adequately repairing vehicles and had falsified timekeeping records. The man, in turn, asserted that the supervisor treated other, non-minority mechanics more favorably – he was not allowed to order his own parts for vehicles and was only allowed to work on trucks in poor repair. He further contended that the supervisor was fabricating the disciplinary action forms to force him out of the job. A fellow employee, who is Hispanic, filed a complaint against the supervisor for racial discrimination. His subsequent complaint against the company initiated an investigation by the Cook County Commission on Human Rights, in which the man in this case participated. The man then filed a complaint of his own with the Commission, alleging retaliation for his involvement in the investigation, and later filed a charge with the EEOC (Equal Employment Opportunity Commission) for retaliation and racial discrimination. After being cited for three infractions in one day, the mechanic was told by management that he had a choice – either accept an unskilled position that paid considerably less, or challenge the disciplinary marks and risk termination. He chose the demotion, filing an EEOC complaint almost



immediately and being issued a Right-to-Sue notice shortly thereafter.

judgment, but the motion was denied, largely due to an affidavit from an intermediate supervisor. He stated that the mechanic’s supervisor informed him that there were two workers who “needed to be fired” – the two minority employees – for filing complaints. Employees at management level said essentially the same thing – that they wanted to “get rid of” both mechanics. At trial, the intermediate supervisor substantiated his affidavit and further testified that the supervisor directed him to write up the plaintiff for “anything... any time, all the time, every time basically.” A jury found in the plaintiff’s favor, and he was awarded \$30,000, the court also ordering the FPD to reinstate the man to his former position. The FPD’s appeal noted the man “voluntarily” taking the demotion, but appellate judges cited the implied threat of termination. The case was further strengthened by the “cat’s paw theory” – though the decision-makers’ actions were not discriminatory, they were swayed by the supervisor’s 28 disciplinary action forms. Additional arguments on appeal, including improperly instructing the jury (appellate judges did not believe that the jurors were “confused or misled”), were all dismissed. The appeals court affirmed the district court’s denial of the FPD’s motion for judgment, and denied the FPD’s request for a new trial, as well as its request to rescind the mechanic’s reinstatement.

In a district court, the FPD made a motion for summary