

AIR FORCE MAINTENANCE INSPECTOR ALLEGES HE WAS FIRED DUE TO RACIAL DISCRIMINATION, RETALIATION



An Air Force maintenance inspector was fired for not following supervisors' orders. But not according to the inspector himself, who claims that it was racial discrimination and retaliation for complaints filed with the EEOC (Equal Employment Opportunity Commission). His case was reviewed by a merit board, a district court and an appeals court. The man, a Mexican-American, was a civilian Air Force employee for many years. In the late 90s, he was passed over for a promotion, which went to a white employee. He believed that he didn't get the promotion due to his race and lodged an EEOC complaint. That complaint was settled, but two more eventually followed, against his direct supervisor and the Vehicle Maintenance Officer (VMO), who oversaw all vehicle maintenance – the same position the man had applied for but didn't get. In past years, mechanics were allowed six rejects – mistakes – in repairing vehicles, and inspectors were not included. In 2000, the VMO implemented a new system – twelve rejects, and inspectors were charged with rejects that missed inspection. During the first few months of the 2002-2003 rating period, the inspector incurred twelve rejects. He was given an "opportunity period" because of his union's collective bargaining agreement – a month to prove his ability and to avoid disciplinary action. He worked with his first line supervisor to insure that no vehicles had rejects. Initially there were no problems, but on a day that the supervisor was absent, the VMO reviewed the inspector's work and found six rejects – ones that he believed were so apparent that the man had not done any inspections. Over the next six months, the man allowed double the allotted number of rejects, 24 in all. Believing that he was simply defying authority, the supervisors fired him. The Merit Systems Protection Board reviewed the case but found that the Air Force had proven an "insubordinate defiance of authority." The Board's decision was appealed to a district court, with a claim of a Civil Rights Act violation of racial discrimination and retaliation. Judges concurred with the Board and dismissed the claims. Appellate judges looked at the Board's ruling and saw no reason to dispute it – it showed that the man was capable of performing the work and seemed to have intentionally avoided inspections when he wasn't being directly supervised. As to the discrimination claim, the plaintiff could only offer circumstantial evidence. Federal judges had ruled that his testimony noting others' reports of racist remarks made by the VMO was inadmissible. Beyond that, he had heard a joke from the VMO which included the word "Mexican," but also admitted that he hadn't heard the entire joke. Judges further dismissed the man's attempts to show preferential treatment for non-Hispanic employees, as he'd pointed to a white employee with fewer rejects and a Native-American worker who was a shop supervisor, not an inspector and not responsible for reviewing mechanics' work. For the retaliation claim, the plaintiff had only shown that the VMO was frustrated by the time and effort of the man's dealing with his union, not the EEOC complaints themselves. Furthermore, his complaints were filed three years before his termination, so there's no temporal proximity. As no discrimination or pretext was proven, the appeals court affirmed the decisions of the Board and district court.