

WOMAN FIRED FOR TAKING PICTURES OF CO-WORKERS, BUT EMPLOYER VIOLATED NLRA



A woman wore a hat to work to conceal what she deemed a “terrible haircut,” instigating a series of events that resulted in her termination three weeks later. A judge, however, ruled that her employer had violated the National Labor Relations Act (NLRA). Nicole Wright-Gore worked as a central supply clerk in White Oak Manor in North Carolina. Her hat was worn to her job for a week when the personnel director informed her that it was in violation of the company’s dress code. Wright-Gore was subsequently asked to remove the hat, and that, if she refused, she should go home. She opted for the latter. The following day, she met with the White Oak administrator concerning her head attire, at which point Wright-Gore expressed her belief that the dress code was being enforced “unevenly.” The administrator gave her a written warning for insubordination. In the ensuing days, Wright-Gore watched her co-workers and saw that some of them were likewise wearing hats, as well as having tattoos in plain sight. None of the employees had been cited for violation of the dress code. Wright-Gore garnered support from her fellow employees by discussing with them the imbalanced administration of the policy in question. Furthermore, she used her cell phone to take pictures of four employees whose appearance violated the dress code. Of those four, two of the employees were unaware that they were being photographed, leading one to complain that Wright-Gore had taken his picture without permission. Wright-Gore was fired for violating company policy, more specifically for photographing co-workers without their knowledge and showing these pictures to other employees. Wright-Gore responded by filing a complaint, stating that White Oak had violated the NLRA. She argued that the cell phone pictures and employee deliberations were not for her own benefit, but rather to document a case proving irregular enforcement of the company policy. White Oak disputed the allegations, but at an administrative hearing, the judge agreed with Wright-Gore, believing that her actions “satisfied the NLRA’s requirement that an employee be engaged in concerted activity.” Protected concerted activity is a principle under the NLRA to safeguard employees’ actions without concern over dismissal or termination. Section 7 of the NLRA states: “Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.” In Wright-Gore’s case, she debated the company’s lack of policy enforcement with others and enlisted the help of another employee in taking some of the cell phone pictures. The judge likewise asserted that Wright-Gore had not violated the policy related to photographs without permission, as it was clear that employees liberally photographed one another with no expressed permission and exhibited the pictures around the facility. The judge ruled in Wright-Gore’s favor. The case moved to a federal appeals court, which upheld the initial ruling.