

WOMAN FIRED FOR DELINQUENT YOUTH'S RELEASE FROM RESIDENTIAL CUSTODY



A woman employed at the Department of Human Services in Arkansas was fired after allegedly lying about a youth's release from residential custody. She claimed that two of her supervisors had violated her civil rights by discriminating against her on the basis of her gender. The woman was the Intake and Placement Director for the Division of Youth Services. The company contracted with G4S to provide residential services for delinquent youths. In May 2009, several occupants were released to community-based treatment, which is less restrictive than residential custody. One of the youths, however, became a source of controversy – he allegedly committed a murder shortly after his release. The woman's supervisor held a meeting with her and three other employees to ask if anyone was aware of any concerns prior to the youth's release. They all responded negatively, but after the meeting, one of the employees told the supervisor that a G4S worker had questioned the youth's release – concerns that the employee had passed on to the woman. The supervisor looked into the matter and uncovered a release document electronically signed by the woman that included information from G4S, recommending against release of the youth. The woman denied any such knowledge at a later meeting. The supervisor made the decision to terminate the woman's employment, which was approved by the Division director. The reasons for her firing were various policy violations, including dishonesty. The woman responded by filing suit against her supervisor and the Division director, citing violations of the Civil Rights Act, the Equal Pay Act, the Arkansas Whistleblower Act, and due process. All claims, save gender discrimination, were either abandoned by the plaintiff or dismissed. With regard to a civil rights violation, the district court ruled in favor of the woman, making note of the "slight variation" between the reasons for the termination given to the woman and those in a newspaper article, the fact that the plaintiff was the only female involved in the case and the only one fired, the fact that the investigation zeroed in on the woman almost immediately, and the apparent policy violations from other employees who were not disciplined.



Appellate judges had a different opinion. Asserting that the woman's argument that she had not lied was unpersuasive, the appeals court accepted the company's reason for termination as legitimate. The plaintiff's attempts to substantiate pretext were therefore unsound. She wasn't "similarly situated" to the employee who admitted to lying for the simple reason that he, unlike the plaintiff, had conceded that he'd been untruthful. The argument regarding "shifting explanations" for the firing – news reports on the termination did not seem to correlate – was likewise dismissed because every explanation given highlighted the essential component of the youth's improper release. The appellate judges did not believe that the plaintiff's evidence would convince a reasonable jury that the company's stated reasons for the firing were a pretext for gender discrimination. Furthermore, they believed that the supervisors were entitled to qualified immunity. The appeals court reversed the district court's grant of summary judgment in the woman's favor.