

MOTION TO DISMISS FILED IN WEST VIRGINIA DHHR WHISTLEBLOWER CASE

WEST VIRGINIA
Department of



A motion was filed in Kanawha Circuit Court Tuesday by private attorneys representing the West Virginia State Department of Health and Human Resources. The motion requested the dismissal of a whistleblower lawsuit that was filed in court by two attorneys from the DHHR who have been on administrative leave from their positions since July, according to The Charleston Gazette. The attorneys who want the dismissal are Charles Bailey and Dawn George. They claim that Jennifer Taylor and Susan Perry do not have any grounds to sue the DHHR because they were not suspended from their positions without pay and they were not fired. Complaints were filed back in October by Perry and Taylor, arguing that they were subjected to public humiliation, illegal reprisals and suffered damage to their professional reputations. The reason they listed these claims were because they tried to perform their duties as lawyers for the DHHR as honestly as possible. The motion to dismiss that was filed says that there are no grounds for the whistleblower lawsuit to be pursued because neither Taylor or Perry have been suspended or fired for what they did. The other person on administrative leave is that of John Law, the communications director. "Ms. Perry, Ms. Taylor, and Mr. Law were not terminated from their employment with DHHR, indeed, each continues to collect their full salary and benefits as if they were reporting to work each day," the motion states. "Ms. Perry, Ms. Taylor, and Mr. Law are on administrative reassignment despite the fact that DHHR has the right to dismiss them in accordance with their at will status, yet DHHR continues to compensate them fully pending the outcome of the related criminal investigation." Law is not part of the lawsuits but they do claim that Perry and Taylor, along with Law, were reprimanded when they raised concerns about inconsistencies found in scoring and evaluation of bid packages for the department's advertising and marketing contract. The contract has been estimated to be worth \$6 million per year. The lawsuit claims that Perry and Taylor were concerned by a pattern of mishandling of previous bid evaluations by the department. One of those instances includes a multimillion dollar contract for Medicaid Management Information System. In this bid, the request for bids were recalled and resubmitted at least three times. This led to an investigation by the legislative auditor of the state of West Virginia. In the motion to dismiss, it is argued that both Taylor and Perry do not have any legal authority to conduct bid process reviews. The motion to dismiss also says that DHHR Secretary Rocco Fucillo did not have any obligation legally to follow the advice of the two.