

## APPEALS COURT REVERSES RULING ON FORMER EMPLOYEE'S LAWSUIT AGAINST PERDUE FARMS



An escalation of misconduct was the reason an employee was fired from a Perdue Farms plant in Perry, GA. The former worker, however, claims that his termination was due to his race and for making complaints against managers. The man, who is African-American, was hired by Perdue in July 2007. There were no problems for the first ten months of his employment. But in early 2008, a former employee told him that the plant's director of operations had a hangman's noose in his office. The man brought his concerns to an HR rep, and all three searched the office, only finding the item in question when the man pointed to its location in a drawer. The HR rep put the noose around her waist and joked that it could be worn as a belt. She and the director both laughed. The worker complained to the director and to the corporate HR manager. He also claimed that, following his complaint, he began having troubles with white supervisors. One allegedly put his hands and fingers in the man's face and told him to "calm down." A similar incident happened with another supervisor, and supervisors were concurrently saying that the employee was being disrespectful. He complained again to the HR manager about the two supervisors and the HR rep. He later received a five-day suspension, which he appealed and had rescinded. The HR manager investigated, found there was no harassment and concluded that the suspension was inappropriate. A staff member at Perdue's on-site wellness center complained that the man had been threatening after he was told that a doctor would need to refill his prescription or give him a new one. Another incident, involving yet another supervisor, was the man objecting to the shipping crew being temporarily moved to the production lines. The HR manager and rep, the director and the supervisor – the third one named – agreed that the man, because of his alleged behavior, should have the choice of resigning or termination. The worker refused the former option and was fired. In response to the man's EEOC (Equal Employment Opportunity Commission) charge, Perdue cited the confrontations with the two supervisors, though they weren't referenced when the man was terminated. A district court dismissed the man's ensuing lawsuit, and the appeals court affirmed on all counts but two – wrongful termination and retaliation. For the retaliation claim, the plaintiff had to show a causal link between his complaints and the termination. Of the four people involved in his firing, one was aware of his initial complaint and two were specifically named in it. He was also fired only a few months after his initial complaint, and complaints against him started only after he first complained about the HR rep and supervisor. Perdue, in providing a legitimate reason for termination, noted the altercation between the man and the two supervisors – but its own corporate HR manager had already concluded that no harassment existed. Other incidents had affidavits supporting the plaintiff, including two co-workers and a Walmart pharmacist present during a phone call with the wellness center. Appellate judges believed that the man had shown the possibility of retaliation, as well as evident to substantiate a wrongful termination claim. These two counts were reversed and remanded to the district court for trial.