

Wrongful Firing: Nurse's Case Validated.

A licensed practical nurse was asked to take a drug test the same day that narcotic medication was discovered missing from a medication cart.

The nurse complied. The test came back negative.

The nurse insisted that her supervisors call the police and also report the incident to the state department of health so that a proper investigation would occur.

Her supervisors refused to call the police and never notified the state Department of Health and Environmental Control as the nurse asked them.

The nurse was terminated soon after her negative drug test.

A former employee can sue for wrongful termination for being fired under circumstances that amount to a violation of public policy by the employer.

UNITED STATES DISTRICT COURT
SOUTH CAROLINA
July 11, 2013

The US District Court for the District of South Carolina ruled the fired nurse had grounds for a lawsuit.

The Court noted it was not a lawsuit for race discrimination even though the fired nurse was a minority. It was not relevant that the nurse might have elected but did not elect to couch her lawsuit in terms of race discrimination and might not have had grounds for such a lawsuit.

Retaliation Was Basis for the Suit

The Court believed the nurse was fired wrongfully in retaliation for insisting that the incident involving a serious medication discrepancy needed to be investigated by proper legal authorities.

The state Department of Health and Environmental Control finally did drop in unannounced seven weeks later and discovered at that time that violations of state laws and regulations were involved in the missing medication incident. **Morrow v. Brookview Healthcare**, 2013 WL 3553415 (D.S.C., July 11, 2013).

Discrimination: Nurses Treated Differently For The Same Altercation.

The charge nurse approached one of her nurses in the hospital's cafeteria line and threatened to report her to the nurse manager over an incident that happened a few days before.

The nurse responded by twice threatening to punch the charge nurse.

The incident a few days before involved the nurse misinforming other nurses on the unit that she had been given a particular assignment by the charge nurse which she preferred over the assignment the charge nurse had actually phoned into the unit for her.

The staff nurse, a minority, was terminated while the charge nurse, a non-minority, was kept on the job after a brief suspension during the investigation.

The staff nurse sued the hospital for race discrimination.

At least one witness overheard both sides exchange heated arguments in the hospital cafeteria.

However, neither side disputes that only one side threatened physical violence.

It is true that one side, the non-minority, received more favorable treatment.

But the two were not similarly situated, so their different treatment is not evidence of discrimination.

UNITED STATES DISTRICT COURT
PENNSYLVANIA
June 28, 2013

The US District Court for the Eastern District of Pennsylvania ruled there was justification for the two nurses being treated differently, a threat of violence by only one, along with the underlying incident that sparked the confrontation in the first place. **Ballard v. Mercy Catholic**, 2013 WL 3305235 (E.D. Pa., June 28, 2013).

Racial Slur: No Grounds For Suit, Court Says.

A minority surgical tech received a pay raise when she completed nursing school and was accepted as a graduate nurse into the hospital's perioperative nursing internship program.

While being counseled over her own attendance issues she told her supervisor that she had overheard a non-minority employee use a derogatory racial slur referring to a minority co-worker, not her.

An investigation followed in which the non-minority co-worker admitted she said what she said and was fired.

Afterward her co-workers began staring at the nurse and whispering behind her back. Then after she did not pass her nursing boards she was demoted back to surgical tech.

An employer cannot discipline or fire an employee in retaliation for complaining to a supervisor about a co-worker's racially offensive remarks or actions.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
July 9, 2013

The US Court of Appeals for the Fifth Circuit (Louisiana) ruled this fired employee had no grounds to sue.

It was true that her complaint to her supervisor about a co-worker's racist remark was an activity protected from retaliation by the US Civil Rights Act.

However, the consequences, that is, stares, behind-the-back whispering and lack of cordiality by her co-workers were not serious enough to support a lawsuit.

The Court also noted that the graduate nurse's demotion back to surgical tech occurred soon after it was learned she had not passed her boards. Her salary was not dropped back to the surgical-tech rate for several months, until a facility-wide audit revealed her pay rate did not match her grade. These facts did not support an inference of retaliation, the Court said. **Robinson v. Our Lady of the Lake**, ___ Fed. Appx. ___, 2013 WL 3437774 (5th Cir., July 9, 2013).