Supreme Court USERRA Case

On March 1 the U.S. Supreme Court announced a decision that will have far-reaching effects on employers everywhere. In *Staub v. Proctor Hospital*, the plaintiff filed suit under the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") following his termination of employment. Under USERRA, it is unlawful for an employer to discriminate on the basis of an employee's membership in the armed services.

The plaintiff, who worked for an Illinois hospital as an angiography technician, was a member of the U.S. Army Reserve. This commitment required him to be away from work for one weekend each month and two to three weeks per year. At trial, the evidence showed that the plaintiff's supervisors were hostile to his military obligations. For example, one supervisor had made a comment that he scheduled the plaintiff for additional shifts without notice so that the plaintiff would "pay back the department for everyone else having to bend over backwards to cover his schedule for the reserves."

The supervisor later issued the plaintiff a corrective action for being away from his work area without permission. Three weeks later, a different supervisor informed the defendant's Vice President of Human Resources that the plaintiff again had been away from his desk without permission. Based on these two reports, the VP of HR decided to terminate the plaintiff's employment.

At trial, the plaintiff established that his supervisors had fabricated their reasons for disciplining him, and that their real motivation was discrimination on the basis of his status as an Army Reservist. The jury awarded the plaintiff $57,640 in damages.

The Supreme Court upheld the jury verdict. The Court rejected the defendant's argument that an employer cannot be liable when the person making the decision to

terminate is not motivated by discrimination. Indeed, in this case, there was no evidence that the VP of HR harbored any ill-will towards the plaintiff. She had merely relied on the reports of the two supervisors. Since the supervisors did not actually make the decision to terminate, the defendant argued, the employer could not be liable. The Court disagreed, holding that "the employer is at fault because one of its agents committed an action based on discriminatory animus that was intended to cause, and did in fact cause, an adverse employment decision."

While this particular case dealt with a claim under USERRA, the Court's holding may very well be extended to other federal employment laws. As such, even if an employer believes it has a perfectly legitimate and non-discriminatory reason for a particular employment action, it may still be held liable for discrimination if one of the employee's supervisors ever took an adverse action against the employee that was motivated by discrimination. Thorough investigation prior to termination is crucial.

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