Sixth Circuit Denies Associational Retaliation Claims under Title VII

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The federal appeals court in Cincinnati has held that only a person who has personally engaged in a protected activity may bring a retaliation claim under Title VII of the Civil Rights Act of 1964. Thompson v. North American Stainless, No. 07-5040 (6th Cir. June 5, 2009). In so ruling, the Sixth Circuit Court of Appeals has joined the Third, Fifth and Eighth Circuit Courts of Appeals. Title VII prohibits employers from retaliating against an employee who has opposed an unlawful employment practice or who has made a charge, testified, assisted or participated in an investigation, proceeding or hearing. The full court strictly construed the language of Title VII to eliminate a potentially unreasonable expansion of retaliation claims to “associated” persons. The Sixth Circuit has jurisdiction over Ohio, Michigan, Kentucky and Tennessee.

In Thompson, Miriam Regalado filed a charge with the Equal Employment Opportunity Commission alleging that her supervisors discriminated against her based upon her gender. Approximately three weeks after the employer was notified of the charge by the EEOC, Regalado’s fiancé, Eric Thompson, who worked for the same company, was discharged. Thompson filed his own EEOC charge, claiming that his termination amounted to retaliation for the filing of his fiancé’s EEOC charge. The EEOC issued a probable cause finding, and Thompson filed suit.

The District Court granted the employer's motion for summary judgment, finding that no retaliation claim existed under Title VII for Thompson based upon his association or relationship with his fiancé and her filing of an EEOC charge. On appeal, in a 2-1 panel decision, the Sixth Circuit reversed, holding, “Title VII prohibit[s] employers from taking retaliatory action against employees not directly involved in protected activity but who are so closely related to or associated with those who are directly involved, that it is clear that the protected activity motivated the employer’s action.” Thus, the panel’s decision would have significantly expanded the scope of Title VII’s anti-retaliation provision to an ill-defined group of friends, relatives, and close associates of the discrimination claimant.

The Sixth Circuit, by a 10-6 majority, however, held definitively that the plain language of Title VII does not extend to associational retaliation claims. The Court said that Title VII anti-retaliation protection applies only to those persons who have personally engaged in protected activity by opposing a practice, making a charge or assisting or participating in an investigation. Because Thompson did not allege that he had engaged in any statutorily protected activity, he could not maintain a Title VII retaliation claim.

Jackson Lewis attorneys are available to answer your questions about this case and workplace laws.

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