

"Different Treatment" May not be Discrimination

A recent holding in discrimination has left us scratching our heads.

It involves a Black teacher employed by the Department of Defense Dependent Schools.

DOD fired the teacher for poor performance. The teacher filed a discrimination complaint alleging race discrimination and reprisal. Several white teachers who had not been fired testified that the plaintiffs work was no worse than their own.

Evidence also showed that the Black teacher's supervisor made a racial comment when he heard that he had filed an EEO complaint.

Did this evidence add up to discrimination and reprisal?

No, according to the Court of Appeals for the Fourth Circuit. IN particular, the court said the testimony of co-workers about their work as complied to the plaintiffs was not persuasive because it is the employer's opinion of the work that really counts, and DOD could fire the teacher if it deemed him a bad performer.

The ruling in this case is unusual because in a discrimination case, evidence that people outside of a protected group are treated differently generally raise a red flag.