

Genesee County

Circuit Court – Flint

Security Guards Accused of Assault Awarded Whistleblower Damages

Case Caption:

Ricky Buggs and Bobbie Jones v. School District for the City of Flint, Karen Pugh, Eraina Poole and Loleta Towner

Verdict: \$278,500 for Plaintiff Buggs and \$21,000 for Plaintiff Jones on the Whistleblower claims, plus interest, costs and statutory attorney fees. A defense verdict was entered on the gender discrimination claim. See Editor's Note.

Judge: Judith A. Fullerton

Date of Verdict: 7/18/2012

Attorneys:

Plaintiff: Tom R. Pabst, Flint
Michael A. Kowalko, Flint
Jarrett M. Pabst, Flint

Defendant: Withheld

Facts: High school security guards sued the school district and several individuals after the plaintiffs were disciplined following an incident with a student. The plaintiffs asserted that actions taken against them were retaliatory and violated their rights under the Whistleblower Protection Act. The defendants denied liability, but a Genesee County jury found for the plaintiffs. The jury awarded \$278,500 to Plaintiff Ricky Buggs and \$21,000 to Plaintiff Bobbie Jones for whistleblower violations. The male plaintiffs had also sought damages for alleged gender discrimination, but a defense verdict was entered on that claim.

Plaintiffs were security advocates at Flint Northern High School. Two social workers who worked within the same school, Defendants Eraina Poole and Loleta Towner, filed an incident report stating that Buggs punched a 15-year-old special education student on March 24, 2001, while Jones, who was standing nearby, failed to intervene. An investigation ensued, which led to a recommendation by Defendant Karen Pugh, the human resources director for Defendant School District for the City of Flint, that plaintiffs be suspended without pay. Following additional investigation, Pugh recommended to the school board that plaintiffs be fired, but the board declined to do so. The disciplinary action was placed in plaintiffs' permanent employment records.

Plaintiffs denied that Buggs punched the student. They claimed that the student in question was known to have serious behavioral problems and that they had complained that the student was permitted by Poole and Towner to run amok within the school, which included screaming obscenities and assaulting teachers, staff and other students. On the date in question, plaintiffs asserted that they were asked to remove the student from the building because of his behavior. They claimed that, when they attempted to do so, the student attacked and punched Buggs. Plaintiff Buggs maintained that he and the student fell to the ground after Buggs placed a bear hug on the student in an attempt to stop the student from attacking him. Several teachers who witnessed the incident reportedly corroborated plaintiffs' account of the incident. Plaintiffs reported that the student had committed a crime, i.e., assault.

Plaintiffs alleged that the incident report filed by Poole and Towner was in retaliation for plaintiffs' complaints that Poole and Towner allowed the student in question to do as he pleased and was also in retaliation for plaintiffs' reporting that the student had committed a crime. Plaintiffs alleged that such retaliation constituted a Type I violation under the Whistleblower Protection Act. Plaintiffs argued that Pugh and Poole were friends, which led to Pugh's failure to conduct a fair and thorough investigation of the incident. According to plaintiffs, they were asked to participate in the investigation and then punished for their participation, which was a Type II whistleblower violation. Plaintiffs also argued that they were discriminated against because of their gender.

Defendants Poole and Towner contended that their reports truthfully reflected what occurred on the day in question. Defendant Pugh reportedly admitted she did not think Buggs should be working at the school. Defendants also argued that Buggs was a felon who had served 2.5 years in prison and he should not be working in the school system. Defendant Pugh denied she undertook the investigation, but maintained that the investigation was appropriately performed and that suspending Buggs was appropriate. Defendants noted that Buggs was still employed by the school district at the time of this trial and argued that he had suffered no damages.

Plaintiffs' motion for partial summary disposition as to liability on the Type II whistleblower cause of action was granted. The jury was left to determine whether defendants' actions constituted Type I whistleblower violations and whether plaintiffs were discriminated against on the basis of their gender.

Plaintiff Profile: Plaintiff Buggs was a 47-year-old married male who worked as a security guard. Plaintiff Jones was a 65-year-old male. He also worked as a security guard.