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Jury clears Erie County of retaliation for discrimination claim

By Phil Fairbanks

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The Erie County Legislature approved the 2020 budget, 10-1. (Robert Kirkham/News file photo)

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When Erie County disciplined David Reid and two of his co-workers, it was not done in retaliation for his race discrimination claim, a federal court jury decided Thursday.

The jury in the high-profile civil trial deliberated for about six hours over two days before finding in favor of the county.

The case, being watched closely by Republicans and Democrats in county government, centered around Reid's allegations of discrimination and retaliation when he and his white co-workers complained. Legislature Republicans early on had pointed to the case as a possible indication of widespread discrimination within county administration.

Reid, an African-American, had said he was told to "stay out of sight" when a white former female administrator in the District Attorney's Office complained about his presence in the lobby of County Hall.

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The administrator claims Reid made comments that made women in her office uncomfortable.

"We want to thank the jury and the court for their time and attention," said Eric M. Soehnlein, a lawyer for the county. "The jury got it right."

At the core of the trial before U.S. Magistrate Judge Jeremiah J. McCarthy was Reid's claim that the county never took his race discrimination complaint seriously and instead chose to retaliate against him for making it. Reid was the subject of a written warning a few weeks after he filed his complaint.

The county countered by suggesting his discipline was based on his refusal to obey the same direct order three times.

They also claim Reid filed similar complaints, at least one of them based on race discrimination, with three previous employers, a claim Reid acknowledged while on the witness stand.

"I'm disappointed in the verdict and surprised," Andrew P. Fleming, Reid's lawyer, said Thursday.

During the trial, Reid testified that he filed his complaint after his supervisor in Erie County's Department of Public Works confronted him and, for the third time, complained about his presence near the Franklin Street entrance to County Hall in an area where the female administrator often worked.

"He said, 'I just want you to stay out of sight,' " said Reid, who was part of a cleaning crew.

From the outset, the county's lawyers, Soehnlein and Vincent M. Miranda, argued that buying into Reid's allegations was like buying into a grand, unbelievable conspiracy.

On cross-examination, they also portrayed Reid as a lackluster worker intent of doing what he wanted to do.

"He was hostile," said Daniel Rizzo, Reid's boss at the time. "He said no one is going to tell him where to start work."

Rizzo is currently the county's parks commissioner.

Joining Reid in his suit against the county were David Ricotta and Michael Palmeri, county workers and union representatives who support him.

Both men claim they were fired by the county after administrators discovered they were supporting Reid's discrimination claim. The county claims they abused sick leave.

The independent arbitrator who handled the Palmeri-Ricotta case agreed that discipline was warranted but found their termination was excessive and ordered them reinstated.

In the end, the case that went to trial focused on the allegations of retaliation against the three men, not the race discrimination claims made by Reid.

In 2017, McCarthy pointed to the county's disciplinary action against Reid and dismissed the discrimination claim. The judge found that Reid's written warning was never followed by a demotion or any other adverse change in his employment status.

As 'retaliation' trial unfolds, Erie County officials are watching



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