
**Federal Court Report**

**Police Officer Was Not Fired Because of His Political Activity or His Race**

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A sheriff's office fired a police officer for reasons other than his political activities and his race, according to the 7th U.S. Circuit Court of Appeals.

While working as a police officer, the plaintiff earned a law degree and began practicing law. He later ran for a county commissioner seat, won the election and began serving in that role in addition to working as a lawyer while also continuing his employment as a police officer.

The officer was involved in a head-on collision in his squad car, and he then collected disability payments because he was unable to work as a police officer. But he continued working as a lawyer and serving as a county commissioner while receiving disability payments.

The county's risk management department and the office of professional responsibility (OPR) within the sheriff's department investigated the officer's activities and discovered that he was driving his car while working as an attorney and county commissioner at the same time he was claiming to be restricted from driving as a result of his accident.

The OPR also discovered that the sheriff's office had no records of secondary employment requests or approvals of secondary employment for the officer for an almost two-year period, even though the sheriff's office required employees to request and receive authorization before engaging in secondary employment.

After the officer was cleared to return to work, the OPR brought administrative charges against him. Those charges were heard by a merit board, which found that the officer had engaged in unauthorized secondary employment, violated driving restrictions and lied to OPR investigators about submitting secondary employment requests. The merit board directed the sheriff's office to fire the officer, and the sheriff's office did so.

The officer sued, claiming that he was fired because he was white and due to his political activities—running for office as a Republican. The trial court granted summary judgment for the sheriff's office and the 7th Circuit affirmed.

The 7th Circuit concluded that the evidence would not support a finding that the officer's political activity was a motivating factor in the merit board's decision. The officer relied on the timing of the action taken against him as evidence that the actions were motivated by his political activity. However, the appellate court explained that suspicious timing alone will not give rise to an inference of causation unless the adverse employment action follows "close on the heels" of the protected activity. And in this case, it did not.

The 7th Circuit also explained inferring causation from timing alone would be particularly inappropriate when there was some intervening event that separates the adverse action from the earlier protected activity. In the case, the appeals court said, the significant intervening event was the officer's actions in continuing to collect disability benefits while working two other jobs without having authorization for his secondary employment.

Finally, the 7th Circuit noted that even if the officer had raised an inference of retaliation, the sheriff's office showed that he was fired for nonpolitical reasons and the officer did not disprove that showing. Similarly, the appeals court found that the officer failed to present any evidence that the sheriff's office took action against him because he is white.

*Bless v. Cook County Sheriff's Office*, 7th Cir., No. 20-2733 (Aug. 17, 2021).

**Professional Pointer:** Because adverse employment actions taken against an employee who engages in protected activity can be challenged as retaliation, employers should ensure that adverse actions are taken for legitimate reasons free from retaliatory motive. This is particularly important when an adverse action closely follows protected activity.

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