

McClellan: A quick verdict for a troubled university employee



FEBRUARY 08, 2014 11:45 PM • BY BILL MCCLELLAN
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Bill Stevens has a doctorate in chemistry. He used to be the director of the Nuclear Magnetic Resonance Facility at Southern Illinois University Carbondale. He faced what he believed to be almost certain termination in June 2011, so he opted to retire. He then sued the university and four of his supervisors.

He alleged that he had been fired in violation of his rights under the Americans with Disabilities Act. He also alleged that he had been retaliated against for taking advantage of the Family Medical Leave Act.

The university and the four supervisors denied everything, including the assertion that Stevens was disabled.

The case went to trial last week in the federal courthouse in East St. Louis. U.S. District Judge David Herndon presided.

Stevens was not a professor, so tenure was not an issue. As director of the facility, which is used for chemistry experiments, he was classified as administrative professional staff. From his hiring in 1989 until the spring of 2010, his position was automatically renewed each year. It was called a continuing appointment. In the spring of 2010, his contract was changed from a continuing appointment to a one-year appointment.

By then, his relationship with his supervisors had deteriorated to the point that a one-year contract was essentially a long goodbye.

Nobody argued that Stevens was not a smart and capable man. But what caused the rift between him and his bosses?

He contended that their dissatisfaction was largely because of his bad back. His job included repairing and maintaining machinery. At times, he was unable to do the bending and twisting required for those tasks.

In the spirit of full disclosure, let me say I am sympathetic to anybody with a bad back. In the same spirit, I should add that Stevens and I have corresponded via email for several years.

I stopped by the courthouse Friday morning to hear closing arguments. First, though, a vocational counselor testified for the defense — the university and the supervisors. The counselor testified that he had identified a number of jobs that Stevens, who is now on pension, is qualified for. So any loss of income Stevens has incurred is his own fault.

But Stevens is 58. Who is going to hire a 58-year-old man with a bad back? Everybody knows most employers are looking for young, healthy people. I thought the momentum was on Stevens' side as the case went to closing arguments.

His attorney was Shari Rhode. She explained to the jury that disability simply means anything that substantially impedes any major life activity. A bad back can do that. Furthermore, Stevens' bad back was not just a generic bad back. He's had surgery.

She also pointed out that he had taken medical leaves in 2008 and 2009 and had just announced his intention to take one for 2010 when his supervisors made the decision to turn his continuing appointment into a one-year appointment. That timing indicated the decision was retaliatory, she said.

The law requires the employer to make a reasonable accommodation to help a disabled person do his or her job, Rhode said. In this case, Stevens needed a graduate student to help him, she said.

Tom Wilson gave the closing argument for the defense. His short-cropped hair is silver, and at first glance I thought Wilson was of the age at which he might have some sympathy for a man with a bad back. But a closer look suggested that his hair is prematurely silver.

He tore into Stevens. He showed the jurors a list of the director's responsibilities and duties, and he said that Stevens had ignored many of them. He argued that machinery was not always up and running. He scoffed at the notion that the university had not tried to accommodate Stevens. He needed a graduate assistant? He had several, Wilson said. He produced a list of them.

He did not question that Stevens had a bad back, but he disputed the claim that his leaves were necessarily related to that. In fact, he showed the jurors a letter about one leave that made no mention of a bad back.

He produced snarky emails that Stevens had sent to his supervisors.

A troubled employee, I thought. No wonder we get along.

After the jury retired to deliberate, I congratulated Wilson on his closing argument. I asked about his hair. It started turning gray when I was in my teens, he said with a laugh. He is now 50.

The jury was not out long. It found in favor of the university and the supervisors on all counts.