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Sixth Circuit: Fired Employees Have Case Against Court

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A federal appeals court has revived a lawsuit brought by a group of former Detroit trial court employees against now retired chief judge Marilyn Atkins for improper termination.

On Wednesday in *Rodgers v. 36th District Court*, the U.S. Court of Appeals for the Sixth Circuit affirmed Eastern District of Michigan Judge Julian Abele Cook's August 2011 denial of Atkins' motion for summary judgment of 14 plaintiffs' claims. Cook granted summary judgment to Atkins on three claims.

Atkins, who served as chief of Michigan's 36th Judicial District Court until her retirement last year, claimed qualified immunity. She also argued that a March 2006 letter from a district official to the union president about "the Court's intent to modify, amend, or terminate all or parts" of collective bargaining agreement ended that agreement.

According to court records, the plaintiffs were fired between February 2007 and February 2009 for reasons including fixing traffic tickets, failing to return to work after a scheduled health leave and falsely applying for bereavement leave. They claimed their terminations violated the agreement and that Atkins and the district improperly denied their demands for arbitration. Their May 2010 case claimed they were fired without due process of law in violation of the Fifth and Fourteenth Amendments.

Judge Julia Smith Gibbons wrote the Sixth Circuit's opinion, joined by Judge R. Guy Cole Jr. and Senior Judge Martha Craig Daughtrey.

Gibbons noted that the terminations were not random and conformed with the 36th District's established procedure.

"Because the plaintiffs challenge actions taken pursuant to established state procedure, they are not required to plead and prove the inadequacy of administrative and state court remedies in order to state a [civil action for deprivation of rights claim]," she wrote.

She cited U.S. Supreme Court and Sixth Circuit precedents holding that public employees who can be fired only for "just cause" enjoy property interests in their employment that is protected by due process.

"We hold that the plaintiffs allege sufficient facts to lead a jury to conclude that it was objectively unreasonable for an official in Atkins's position to believe that the [agreement was] terminated and, therefore, that it was objectively unreasonable to fire the plaintiffs and deny their demands for arbitration," Gibbons wrote.

"It's an important case affirming the rights of public sector employees to have a meaningful review of public officer's decision to terminate their employment," said Robert Fetter, an associate at Detroit's Miller Cohen who argued for the former employees.

Such a review is necessary to ferret out bias, corruption and other improper reasons for ending a public employees' livelihood, he said.

The court and its lawyers at Detroit's Kotz Sangster Wysocki did not respond to requests for comment. Matthew Derby argued. Atkins could not be reached for comment.

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