

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Derrick Agate, Sr.,

Plaintiff,

vs.

Eden Prairie Schools, ISD #272,

Defendant.

Court File No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, by his attorney, The Law Firm of Stephen L. Smith, PLLC, brings this action seeking relief from defendant's unlawful employment practices, stating the following as his claims against defendant:

JURISDICTION AND VENUE

1. This Court has original jurisdiction to hear this complaint and to adjudicate the claims stated herein under Title 28, United States Code, Sections 1331, 1343, 2201, and 2202; and the Civil Rights Act of 1964, Title 42, United States Code, Section 2000e *et seq.*, as amended by the Civil Rights Act of 1991. This Court also has supplemental jurisdiction over plaintiff's state claims pursuant to Title 28, United States Code, Section 1367.

2. Venue is proper in the District of Minnesota because defendant has its principal place of business here, maintains personnel records here, and made or ratified illegal employment decisions that adversely affect plaintiff in this district.

PROCEDURAL HISTORY

3. Plaintiff has satisfied all of the procedural requirements applicable to this action. He filed a charge of discrimination with the Minnesota Human Rights Department which was cross-filed with the EEOC. He received a right to sue notice, dated February 3, 2012.

PARTIES

4. Plaintiff Derrick Agate, Sr. (“Agate”) worked as The Director of Transportation in the Eden Prairie School District located in Eden Prairie Minnesota. He resides in Minnetonka, Minnesota.

5. Defendant Eden Prairie Schools, ISD #272 (“School District” or “District”), is an independent school district within the meaning of MN. Stat. 120A.05, subd. 10.

FACTUAL ALLEGATIONS

6. Agate was the first and only black person to serve as Director of Transportation in the District. He was subjected to racial hostility throughout his tenure as the head of the transportation department. He supervised 119 employees and all but 11 of them were white. He was subjected to numerous racially-charged indignities during his tenure. For example, he was called a nigger by one of his white subordinates. Another white subordinate told him that he was a “black supremacist” who wanted to take away “white people’s rights.” He also was told that he got his job only because the District had to “fill its quota.”

7. Many of Agate’s white subordinates constantly questioned and attempted to undermine his authority as a director. Additionally, Patricia Magnuson (“Magnuson”), Agate’s supervisor and the person responsible for terminating his employment, told him more than once that he was “ten times harder to supervise because he is Black.” Human resources response to these issues was lackluster at best and ineffective. Agate perpetually struggled to supervise some

of his white subordinates. In contrast, he had none of these difficulties in supervising his non-white staff. The endemic problems of racial bias Agate dealt with amongst his staff and the District's tepid response to those problems ultimately gave way to the flimsy justification the District offered for his termination.

8. On January 13, 2010, Agate conducted a department meeting to discuss the race-based Equity work the District was involved in. He was obliged to discuss this information with his department as a primer to more detailed discussions of the data the District intended to have later. During the meeting, Terry Dagner ("Dagner"), one of his drivers, asked why Agate was "always bashing white people." Some of the other drivers clapped in response. Another driver, Mary Merhar ("Merhar"), then questioned the relevance of the Equity findings, as if the drivers need only be concerned with safety issues. Agate tried to explain that although department meetings covered more than safety issues, helping drivers relate better to children of color implicated safety concerns. Merhar walked out of the room before Agate finished explaining the relevance of the Equity data.

9. Two weeks later, on February 1, 2010, union steward, Karen Fedi ("Fedi"), informed Agate during a labor management meeting that drivers were tired of hearing about equity issues; that he needed to stop talking about race; and that she thought the meeting on the 13th did more harm than good.

10. On January 23, 2010, Agate instructed David Nocton ("Nocton"), one of his bus drivers, to drive the Hopkins wrestling team back to Hopkins High School. Eden Prairie hosted a wrestling tournament on the 23rd, which included Hopkins and a number of other schools. There was inclement weather on that day. In fact, the tournament ended early because some of the schools had withdrawn from it as a result of the weather. The Hopkins bus driver was not

scheduled to pick up the wrestling team until 5:00 that evening, and he had informed the Hopkins wrestling coach by phone that he probably was going to be late because of the weather. Instead of having the kids stranded for several hours, and because the weather was supposed to get worse, Agate authorized Nocton to take the team back to Hopkins. He saw this as a safety situation.

11. On February 2, 2010, Magnuson and human resources director, Ryan Stromberg (“Stromberg”) placed him on administrative leave without explanation. The next day, Magnuson and Stromberg (“Stromberg”) questioned him about his decision to direct an Eden Prairie bus driver to take the Hopkins wrestling team back to their high school on January 23rd. Agate is an assistant wrestling coach for the Hopkins team even though he is employed by Eden Prairie. But he explained to Magnuson and Stromberg that his decision to have the Hopkins kids transported back to their school was motivated solely by his interest in their safety. He also explained to them that he had directed Eileen Meredith (“Meredith”), who coordinates the school’s charter buses, to send Hopkins’ transportation department an invoice for this service.

12. Stromberg accused Agate of using District resources for personal gain and that this was illegal. Agate took issue with Stromberg’s accusation and reminded him of other times in which District resources had been used in a similar fashion. For example, when Armstrong High School students were stranded at the Metrodome, Eden Prairie took them back to their school. The District also used its buses to transport Minnetonka, Bloomington, and Minneapolis students to Faribault. Agate mentioned that the superintendent has used District buses to transport Eden Prairie Rotary members to “Mystery Night” dinners at various restaurants in downtown Minneapolis and around Eden Prairie. He also reminded Stromberg and Magnuson that District trucks have been used to transport tables and chairs to the superintendent’s home.

13. A week after this meeting, on February 9, 2010, Stromberg informed Agate that the District intended to terminate him over the January 23rd incident, but that he had the option to resign. Agate did not resign, and the District terminated his employment.

COUNT I

RACE DISCRIMINATION IN VIOLATION OF TITLE VII, 42 UNITED STATES CODE, §2000e *et seq.* OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED, AND THE MINNESOTA HUMAN RIGHTS ACT

14. Agate restates and realleges the foregoing paragraphs as though set forth here in full.

15. The District, through its agents, discriminated against Agate because of his race by terminating his employment in violation of Title VII and the Minnesota Human Rights Act.

16. By reason of the District's discriminatory and unlawful conduct described above, Agate has suffered discrimination, embarrassment, emotional distress, humiliation, loss, and indignity.

17. Agate is entitled to recover all amounts owing under Title VII and the Minnesota Human Rights Act, including liquidated damages for the District's willful violation of these laws. He also is entitled to such legal and equitable relief, including damages for mental anguish, punitive damages and compensation for past and future loss of wages and employment benefits as may be appropriate under Title VII and the Minnesota Human Rights Act.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for the following:

18. That defendant's conduct complained of herein be adjudged in violation of the rights secured by plaintiff under Title VII, 42 U.S.C. §2000e *et seq.*, as amended, and the Minnesota Human Rights Act, Minn. Stat. Chap. 363A.

19. That a permanent injunction be issued prohibiting defendant, its officers, agents, employees, and successors, from engaging in discriminatory employment practices.

20. That plaintiff be awarded compensatory damages in an amount to be established at trial.

21. That plaintiff be awarded damages for mental anguish and pain and suffering in an amount to be established at trial.

22. That plaintiff be awarded punitive damages.

23. That plaintiff be awarded treble damages pursuant to Minn. Stat. §363A.29, subd. 4.

24. That the Court grant plaintiff his attorney's fees and the costs and expenses of this action.

25. That the Court grant such other and further relief as the Court may deem just and equitable in the premises.

Dated: March 19, 2012

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s/Stephen L. Smith

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