

Court: Race-based staffing at Western State Hospital violates law

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OLYMPIA — The Washington Supreme Court ruled Thursday that a state psychiatric hospital violated the state's anti-discrimination law when it issued a directive for white staffers only to work a weekend shift in a ward with a violent patient who had threatened to hurt black employees.

In its unanimous ruling, the nine-member high court reversed a 2015 ruling by a Pierce County Superior Court that dismissed the complaint of nine employees who argued that Western State Hospital illegally took their race into account for the staffing decision.

"Although the trial court found these staffing orders were 'likely an overreaction,' this does not change the resulting discriminatory nature of the staffing decisions," Justice Mary Fairhurst wrote in the decision.

Jesse Wing, an attorney for the plaintiffs, said they were thrilled with the ruling.

"These nine clients have been waiting five years for vindication," he said. "It's taken a long time, but the court has finally vindicated their position. This is best for employees, it's best for the patients and frankly, it's best for the state."

The case stemmed from a staffing assignment in April 2011 related to a patient identified only as "M.P." who previously assaulted other patients and staff. One of M.P.'s regular attendants was black. Another employee became concerned when M.P.'s "violent behaviors and delusions escalated" and he threatened to attack any black staffer who attempted to treat him, the court ruling notes.

Hospital officials decided that no African-American staff should go near M.P. that weekend.

Patricia Blackburn, a white nurse in charge of a neighboring ward, was told by another nurse to transfer three of her psychiatric security attendants to different wards, and was specifically told that the one going to the ward where M.P. resided needed to be white.

Blackburn, who is one of the plaintiffs in the case, refused to depart from the normal transfer rotation list and noted that the next three employees listed were all persons of color, the court noted. When directed to send the person with the lightest skin, she again refused.

The registered nurse who made the transfer request ultimately directed Bonifacio Fornillos — another plaintiff in the case — to go to the ward, and the transfer occurred without incident.

The court noted that the staffing directive ended after the weekend and that none of the plaintiffs have been subject to a similar staffing assignment since that time.

In its ruling, the Supreme Court ordered the trial court to determine what damages and attorney fees to award the employees.

It also told the lower court to determine whether a separate order — an injunction — related to the Supreme Court’s ruling that it’s illegal to race-determined staffing is necessary.

The Supreme Court on Thursday also dismissed the plaintiffs’ arguments that they were subject to a hostile workplace, writing that a staffing decision over one weekend “did not rise to the level of severe or pervasive harassment.”

Officials with the Department of Social and Health Services, which oversees Western State Hospital, said they would have a statement on the ruling later in the day.