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PHILLIP V. UNIVERSITY OF ROCHESTER

Decision

As a result of a recent ruling by the United States Court of Appeals for the Second Circuit ("Second Circuit"), private colleges and universities in Connecticut, New York and Vermont (the three states within the jurisdiction of the Second Circuit) are now subject to federal civil rights litigation over the actions of campus security officials. In this ruling, a departure from decisions by other federal appeals courts, the Second Circuit held that a group of African-American students, who allege that security officials of the University of Rochester ("University") singled them out for racially discriminatory treatment, may bring a claim under 42 U.S.C. § 1981 ("Section 1981").

Factual Background

According to the complaint, on April 30, 1999, a University security officer approached the plaintiffs, four African-American students at the University, who were gathering in the lobby of the University library, and asked them to leave the area. As the students were leaving, the security officer reportedly requested the identification of one of the students, prompting another student to pull out the identification and proclaim: "[T]here, you see he's a student here. We are all students here." The security officer then allegedly grabbed the identification card and called for the Rochester Police Department. He then followed the students outside, where he was joined by another security officer. As one student tried to leave in a car, the security officer allegedly blocked his path. Shortly thereafter, several police units from the Rochester Police Department arrived and arrested the four plaintiffs. They stayed in jail overnight.

On May 11, 1999, University President Thomas H. Jackson sent a letter to the entire University community regarding the incident. He noted that the students claimed they were "dealt with in a racist manner," and he admitted that "the performance of two of the University's Security personnel varied somewhat from normal policies and procedures, and their judgment did not meet expectations in this case." President Jackson also promised to request the dismissal of all charges against the students. All charges against the students were later dismissed.

The four sued the university, claiming, among other things, that the University violated the equal benefit clause of Section 1981. The University moved to dismiss several of these claims, including the Section 1981 claim. The University claimed that the plaintiffs could not bring a claim against a private institution under Section 1981, since the validity of this claim rested on the existence of governmental action. The district court agreed and dismissed this claim.

The Second Circuit's Ruling

The Second Circuit reversed the district court's ruling and reinstated the plaintiffs' Section 1981 claim, holding that governmental action was not required to bring a Section 1981 action. The court noted that the equal benefit clause of Section 1981 provides for the "full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens." Since, the Court reasoned, "individuals can deprive others of equal benefit of laws and proceedings designed to protect the personal freedoms and property rights of the citizenry, we see no principled basis for holding that state action is required for equal benefit clause claims . . . ." In reaching this conclusion, the Second Circuit disagreed with rulings from two other federal appeals courts, the Third and Eighth Circuits.

Implications

The significance of the Second Circuit's ruling will not be immediately clear. The plaintiffs in this case still have to prove intentional race discrimination, and it is not clear what kinds of facts will be necessary to convince a jury to find liability and award damages under the legal theory of racially discriminatory treatment by campus security officials. Indeed, the Court noted in its own conclusion that the precedential value of its ruling "is limited to the facts before us, and we intimate no view of the appropriate outcome for factual allegations less directly linked to ?laws [or] proceedings for the security of persons and property.'" In any event, federal courts now have jurisdiction to entertain a broader range of claims against private institutions than ever before.

This document is not intended to constitute legal advice. If you would like more information or have any questions about this issue, please contact your regular Wiggin & Dana attorney or Victor A. Bolden at (203) 498-4400.