



Township of Egg Harbor

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PRESS RELEASE

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FOR IMMEDIATE RELEASE
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Third Circuit Court of Appeals sustains dismissal of Tavarez lawsuit against Egg Harbor Township

In December 2009, Lieutenant Tavarez filed a lawsuit in Federal Court against the Township of Egg Harbor and the Township Committee Members alleging racial discrimination in promotions.

When the lawsuit was filed, Mayor McCullough was quoted in The Press of Atlantic City on December 31, 2009 stating “the Township intends to vigorously defend our position that our captain promotion process is fair and not discriminatory.” In addition, Attorney Michael Barker stated in the same article that “the case is without foundation and should be dismissed.”

The Township filed a motion for summary judgment with United States District Court Judge Joseph H. Rodriguez and he granted the Township’s motion to dismiss on March 25, 2013. The granting of summary judgment is a result of the court determining that the lawsuit has no basis in law to continue forward.

Mr. Tavarez appealed Judge Rodriguez’s decision dismissing his lawsuit to the United States Court of Appeals for the Third Circuit.

On July 16, 2014, the Third Circuit affirmed the district court’s decision that the Township of Egg Harbor had legitimate, non-discriminatory reasons for not promoting Tavarez in 2007, 2008, and 2009 and Tavarez was unable to present any evidence to the contrary.

The Third Circuit stated “we are in complete agreement with the District Court’s thoughtful analysis and the record supports the court’s findings. Accordingly, we will affirm the district court substantially for the reasons set forth in the district court’s opinion without further elaboration.”

United States District Court Judge Rodriguez issued a twenty six (26) page decision on March 25, 2013 granting the Township's motion for summary judgment. Summary judgment is granted when there is no genuine dispute as to any material fact and the party requesting summary judgment is entitled to judgment as a matter of law. Judge Rodriguez stated that Tavaréz "failed to point to some evidence, direct or circumstantial, from which a fact finder could reasonably either (1) disbelieve the employer's articulated legitimate reasons; or (2) believe that an invidious discriminatory reason was more likely than not a motivating or determinative cause of the employer's action." The court found that Tavaréz offered nothing more than speculation to support his allegations of discrimination.

Mayor McCullough anticipated the decision of the Third Circuit and was not surprised with their ruling. He stated "The Township has been vindicated by their decision. I have stated from the day the lawsuit was filed, that the Township did not violate any laws or discriminate against now retired Captain Tavaréz." This lawsuit disrupted the operation of the Police Department for the past four (4) years, and cost taxpayers a substantial expenditure of tax dollars to defend Mayor McCullough added.

Attorney Barker commented that the Township provided the Court with legitimate reasons for their promotional decisions while Tavaréz was unable to convince the judge otherwise. Mayor McCullough stated "with this lawsuit behind us, the Township and its Police Department can focus on moving forward."