

Jury rules against former Waco Transit System supervisor in retaliation trial

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A former Waco Transit System supervisor who claims he was wrongfully fired in 2010 after documenting alleged wrongdoing by top bosses was not retaliated against by company supervisors and is not entitled to recover damages, a jury determined Thursday.

Jurors in Waco's 170th State District Court deliberated about an hour before deciding that Paul McCauley was not fired in 2010 because he participated in an investigation into a claim that another Waco Transit supervisor was sexually harassing an employee in 2007.

McCauley, 58, was seeking about \$130,000 in damages for lost wages, emotional pain and suffering and mental anguish from McDonald Transit Associates, which contracts with the city of Waco to operate Waco Transit.

McCauley, who worked at the transit system from 1998 until he was fired, alleged Waco Transit supervisors retaliated against him and conspired to get him fired after a female employee confided in him that another supervisor was sexually harassing her. He also claimed that he was fired because of his efforts to document top managers having illegal work done on their private vehicles by Waco Transit mechanics.

Fort Worth attorney David Dowell, who represents McDonald Transit, told jurors in summations Thursday that McCauley was fired because he put water in a supervisor's car to disable it and was charged with misdemeanor criminal mischief.

He also said that McCauley could have been fired in 2007 because he failed to report the sexual harassment allegations to his superiors so an investigation could be conducted.

McCauley was an at-will employee and either of those violations were enough on their own for McCauley to be fired, Dowell said.

"He was not fired in 2010 because of some investigation that happened in 2007," Dowell said. "He says there was this huge conspiracy to get rid of him. If you believe his story, it would have to be a conspiracy of the likes of the Kennedy assassination or the moon landings."

Gas tank incident

After lying twice to his supervisors about his involvement in the gas tank incident, McCauley pleaded no contest to a misdemeanor criminal mischief charge and was ordered to pay \$286 in restitution to Allen Hunter, Waco Transit's assistant general manager.

McCauley told jurors that he put tap water in Hunter's gas tank, at first, as a prank. Later, he said he did it because he thought Hunter would bring the truck into the bus barn to get mechanics there to work on his truck for free on company time.

He said he planned to take a photo of the truck being worked on as insurance in case the retaliation against him persisted or in case he lost his job.

McCauley said he didn't get a photo of Hunter bringing the truck into the bus garage to get it worked on. Trial testimony showed that the truck was repaired at Waco Transit expense by system mechanics after McCauley was fired.

McCauley took pictures of other cars brought into the shop by supervisors to be repaired. He claimed their activities were unlawful and were to the detriment of system vans in need of repairs.

John Hendrickson, resident general manager for McDonald, testified Thursday morning that he brought a car he bought for his daughter's 16th birthday to be looked at in the shop, but said the mechanics who worked on it were off the clock and volunteered to do the work. "The use of public funds for private cars is a big no no," McCauley's attorney, Rebecca Fisher, told jurors in final summations. "But what you heard is that Paul McCauley got fired for doing something that was much less than what was going on there. This is not a mom-and-pop business. This is not the owners of a family business who want to use their own money to fix their own stuff. This is a governmental operation."

\$7.3 million budget

The city contracts with McDonald to operate the Waco Transit System and it receives city, state and federal funds. It has an annual budget of \$7.3 million, with about \$5 million coming from the federal government, \$606,000 from the state, \$118,000 from the city and about \$470,000 coming from user fares.

"We are thankful that the jury vindicated their actions and are appreciative of the folks here in McLennan County who served on the jury," Dowell said.

McCauley said he always felt that two supervisors rode him harder than normal, writing him up for not writing up those employees under him. He said he suffered an irregular heartbeat, high blood pressure and stress-related ailments because he thought the supervisors were conspiring to get rid of him.

The harsh treatment and retaliation worsened, he said, after an employee confided in him that she was being sexually harassed by another supervisor. He said he was not trained in

what to do as a supervisor in such a situation, so he honored her request and did not report it.

But later, she filed a formal complaint, which led to a company investigation.

Hendrickson testified a McDonald official conducted an investigation and found the sexual harassment allegations to be unfounded but determined he acted inappropriately by frequently cursing around employees.

The supervisor was not demoted, but moved to another job in which he had no supervisory authority over the woman, Hendrickson said.