



Virginia Workplace Law

New NPR Show? The Worst Way To Fire Someone.

By: Karen Elliott. *This was posted Monday, November 1st, 2010*

The [firing of Juan Williams](#) from his job at [NPR](#) provides a textbook example of “How Not To Fire.” It highlights a rationale that many employers use to make terminations that can easily backfire: using a single “event” to justify the termination of a particular employee without examining whether the employer has used a similar event to terminate a similarly situated employee.

Employers need to consider whether a court or jury will later consider the “excuse” for termination as synonymous with “pretext.” In making a claim of discrimination against an employer, employees may use circumstantial evidence to show that the employer’s stated [reason for the termination is false](#). If the circumstantial evidence shows that the articulated reason is not worthy of credence, then the appearance of giving a false reason may be used by the employee to establish intentional discrimination. If doubt exists about the employer’s real reason, the employer will lose at the summary judgment stage, and the case will proceed to trial.

The NPR/Williams situation very publicly illustrates how easy an employer’s stated reason for a termination may be shown to appear false. NPR’s CEO publicly stated that the triggering event (a public statement about how Mr. Williams felt on an airplane when there were individuals in traditional Muslim dress) was merely the final event in an accumulation of events about which [Mr. Williams had been previously counseled](#). She stated that Mr. Williams’s statement violated NPR’s “policies.”

People started questioning whether the stated reason was the real reason when other facts became public: (i) Mr. Williams was the only African American commentator on NPR; (ii) NPR had treated other white commentators differently (i.e. [Nina Totenberg’s public statement about Jesse Helms and his grandchildren](#)) ; (iii) NPR chose to terminate over the phone rather than face-to-face. When the matter heated up, [NPR’s CEO did not keep the HR matter private](#), but chose to publicly defend NPR’s decision, even making a public joke about it on camera, denigrating Mr. Williams in an effort to “defend” NPR’s actions.

While the NPR/Williams situation played out in the media as a political situation, it serves as an example of how basing a termination on a single event and provide an employee with a claim for discrimination. Regardless of NPR’s stated reason for the termination, and regardless of whether or not that reason was valid, others were

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able to point out that NPR had arguably treated its one African American commentator (Mr. Williams) differently than it treated a similar white employee (Ms. Totenberg) in similar circumstances. That type of comparison leaves doubt as to whether the employer's articulated reason was the real reason. In cases of discrimination, summary judgment in favor of the employer fails when doubt as to the real reason exists.

Terminations are one of the most difficult HR functions, and [Virginia employment lawyers](#) and attorneys across the country know that making sure employers analyze them from all angles is critical to protect the rights of employers and employees. As the NPR/Williams situation shows, missing an angle can be costly.

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