

## 'At-will' employees don't lose all their job protections

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A couple of weeks ago, Christine L. Boone won a \$3.35 million court award because a jury decided she was fired for the wrong reason.

Boyd, a blind woman, was fired in August 2003 as director of Pennsylvania's Bureau of Blindness and Visual Services. The state said it was for her job performance.

Yet, after a two-week trial, a jury ruled that Boyd was discriminated against because of her blindness.

"Anyone who knows Christine knows that she has dedicated her life to helping the blind," says Arch Stokes, the Atlanta-based attorney who represented her and has litigated employment cases in 30 states. "You cannot question her commitment."

Like most American workers, Boyd was an "at-will" employee. That's an intimidating-sounding phrase that means you can be fired at any time for a good reason, a bad reason or no reason at all.

It also means you can leave your employer for another company any time you wish.

But it doesn't mean that an employer can violate state or federal civil rights to fire you. Various laws protect workers based on their race, age, gender, nationality, religious affiliation or disability. There are laws even to protect corporate or governmental whistle-blowers.

"Ten years ago, I think the at-will clause made workers feel vulnerable," says Richard Paul, a San Diego employment attorney. "But they seem to have learned to accept it. I don't think they like it, but they also don't feel that employers will fire them just because they can."

Boone had been appointed to her job by former Gov. Tom Ridge, and the state would have been within its right to fire her or replace her without offering a reason.

But officials fired her for alleged insubordination. They claimed that Boone refused to enforce an office policy that reduced federal benefits to blind individuals if they won college scholarships.

Later the state compounded the mistake by sending out letters that said Boone had been doing a disservice to the blind community.

"That's the worst thing they could have said to someone like Christine," says Stokes. "You have to know that when Christine got to be the right age, she told her mother she wanted to join the Girl Scouts. Her mother said she could get into a Girl Scout group for the blind, but she insisted on being in the regular group. She has spent her entire life trying to help the disabled become able."

That meant, he said, that she often looked for long-term solutions to helping blind individuals rather than resorting to quick-fixes that would build statistics to assure federal funding of programs for the blind in Pennsylvania.

Stokes said she supported Braille literacy programs for young blind people, realizing that they would stand a much greater chance of obtaining an education and entering the work force. Yet, she would have gotten as much credit from the federal government if she had just given a white cane to blind individual after blind individual without regard to how they would fit into society, he said.

"She was an assertive, independent blind woman and that bothered some people," he said.

The jury agreed that Boone had been discriminated against because of her blindness and was not fired for her job performance.

The at-will provision that exists in 49 states was born at the dawn of the industrial revolution to allow companies to reduce payroll when they saw fit.

Aside from collective-bargaining agreements, there was little to prevent employers from firing workers whenever they wanted until federal and state civil rights legislation surfaced in the 1960s. At that time, it became illegal to discriminate against a spectrum of human characteristics that people have no control over.

"Some people may get worried when they hear at-will, but I don't see any economic value to firing people when you consider how much a company spends to recruit and train their workers," Paul says. "I think employers rightly look at the at-will clause as a tool when it comes to contracts, but I don't think they're going to fire people without a good reason these days."

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