

Northern New England

MONDAY MORNING MINUTE

October 13, 2014

Court Rejects National Origin Discrimination Claim Brought by Employee Fired for Carrying a Gun on Employer's Property

In its recent decision in Dipigney v. AutoZoners, LLC (Civil Number 13-CV-304-LM, Judge McCafferty, October 2, 2014), the United States District Court for the District of New Hampshire rejected a claim of national origin discrimination brought by an employee who was fired for carrying a gun on his employer's property.

The case was brought by Gaius Dipigney, a native of the West Indies, against his employer, AutoZoners. By his own admission, Mr. Dipigney spent forty-five minutes after his shift, in the Hooksett store, wearing a hip holster containing a visible handgun. AutoZoners determined that this conduct violated its workplace security policy, and fired Mr. Dipigney on that basis. Mr. Dipigney then brought suit, alleging (among other things) that based on his differing interpretation of the AutoZoners policy, his conduct was not actually a violation.

In rejecting Mr. Dipigney's discrimination claim, the Court held that Mr. Dipigney's differing interpretation of AutoZoners' policy was largely irrelevant to its analysis. Instead, according to the Court, "...the focus must be on the perception of the decisionmaker, i.e., whether the decisionmaker perceived the plaintiff as violating company policies and whether this perception was credible and reasonable." Based on its determination that Mr. Dipigney failed to rebut AutoZoners' contention that it did in fact terminate Mr. Dipigney's employment for violating company policy, the Court granted summary judgment in favor of AutoZoners.

Your Jackson Lewis attorney can answer questions regarding this and other employment law issues.

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Thomas M. Closson, Daniel P. Schwarz and **Martha Van Oot** were named "LEADERS IN THEIR FIELD" in the 2014 Chambers USA Legal Guide.