

Administrative Leave: Aide Not A Victim Of Racial Discrimination.

An African-American Mental Health Therapy Aide working in a state psychiatric facility was placed on paid administrative leave after a patient filed a complaint that she and two other aides assigned to the patient for close suicide watch had fallen asleep on duty.

She received a letter explaining that the reason for her leave was to facilitate the investigation of the allegations. She cooperated with the internal investigation by giving a sworn deposition in which she admitted she might have momentarily nodded off but denied sleeping on duty.

After giving her deposition she was taken off administrative leave and re-assigned to the p.m. shift. Then she was restored to her night shift after the patient in question had been moved to another unit.

To be a victim of discrimination an employee must suffer adverse employment action based on race.

Being placed on paid administrative leave pending an investigation of allegations is not adverse employment action.

UNITED STATES DISTRICT COURT
NEW YORK
September 11, 2009

The US District Court for the Southern District of New York ruled she had no grounds to sue for race discrimination.

According to the Court, placing an employee on paid administrative leave, in and of itself, is not “adverse employment action,” one of the necessary elements of a discrimination case.

It was not relevant to go into the issue whether the facility had a practice of placing minorities on administrative leave more readily than non-minorities in similar situations, the Court said. **Bryant v. New York State Psychiatric Inst.**, 2009 WL 2957778 (S.D. N.Y., September 11, 2009).