

## Pennsylvania employers beware: One slur by a supervisor can now create a hostile work environment.

Articles July 21, 2017

The Third Circuit recently ruled that a single extreme act of discrimination can produce an actionable hostile work environment claim. In doing so, the court clarified that the legal standard for such claims requires that an employee prove he or she was subjected to “severe **or** pervasive” conduct as opposed to “severe **and** pervasive” conduct. The Third Circuit presides over Pennsylvania, Delaware, and New Jersey, so employers in those states should take note of this decision because it expands the scope of conduct that could make them liable for employment discrimination.

In the case in question, two African American employees were working on a fence removal project when a supervisor told them that if they “n\*\*\*\*\* rigged” the fence, they would be fired. The court summed up why such misconduct could be actionable under the employment discrimination laws as follows:

Here Plaintiffs alleged that their supervisor used a racially charged slur in front of them and their non-African American coworkers. Within the same breath, the use of this word was accompanied by threats of termination (which ultimately occurred). This constitutes severe conduct that could create a hostile work environment.

In light of this ruling, increased attention to, and enforcement of, company anti-discrimination and anti-harassment policies will be critical for employers. Supervisors and managers should be trained regularly to ensure they understand their obligations and that a single incident could be enough to create employment discrimination liability.

If you have any questions about the impact of the Third Circuit’s decision on your business, please contact Jeremy Farrell or (412) 594-3938.

The name of the case is *Castleberry v. STI Group*

and a copy of the court’s opinion can be found [here](#).