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Worker's case could have wide impact

Joe Vincoli's case could affect hundreds of employees

He's challenging state employee reclassification

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RALEIGH

Joe Vincoli, a former state employee who lost his job after being reclassified as a political appointee, is but one man fighting the effects that a 2013 law change had on his career.

But his success or failure in court could have an impact on as many as 1,500 employees who now serve at the pleasure of the governor.

On Wednesday, attorneys for Vincoli argued in front of a three-judge state Court of Appeals panel that the law amended by the General Assembly in 2013 failed to offer reclassified workers an avenue to appeal the decisions.

In addition to more than tripling the number of state workers who could be declared political appointees, the amended law also removed the standard recourse for state employees appealing job decisions — a hearing before an administrative law judge.

Vincoli was hired by the N.C. Department of Public Safety in 2010 in a position that classified him as a career-status employee. At the time of his hiring, he reported to a deputy commissioner of what was then the state department of correction.

After Gov. Pat McCrory's election in 2012, that department became part of the newly formed Department of Public Safety.

In June 2012, Vincoli was rated "outstanding" on his performance evaluation, and in July 2013 he again received another "outstanding."

On Oct. 1, 2013, Vincoli was reclassified as "managerial exempt," though he did not manage or supervise any employees, according to his complaint in state court. On Dec. 6, he was fired on the stated grounds that "a change in agency staff is appropriate at this time."

Vincoli, who still wants to know why, contended

in a 2014 lawsuit that it was because he pursued a whistleblower claim.

Vincoli, a former worker at Wake Forest Baptist Medical Center in Winston-Salem, identified overpayments by the state while working there and urged the hospital to adjust its charges. He was ignored there and fired from that job. After becoming a state employee, he continued to press for reimbursement.

Public safety officials repeatedly told Vincoli to stop his pursuit on state time, arguing that it had nothing to do with his department. His attorneys



Vincoli

contend that state law requires him to report any misuse of state funds regardless of the department.

Vincoli tried to appeal his termination, but the Department of Public Safety and the Office of State Human Resources refused to process his grievance. The state Office of Administrative Hearings dismissed his challenge, but Wake County Superior Court Judge Donald Stephens ruled last summer in favor of Vincoli. The state has appealed that.

Michael Byrne, a Raleigh attorney representing Vincoli, argued on Wednesday that not offering his client an opportunity to challenge his reclassification amounted to a taking of property.

Attorneys for Vincoli argued Wednesday morning that when he was hired by the state in 2010, he essentially entered an employment contract that stated if he did his job for 24 months, he gained "certain rights with a property interest."

Joseph Finarelli, an assistant state attorney general, disputed contentions that Vincoli's hiring by the state was a contractual agreement. He also argued against the theory that Vincoli had been stripped of any legal recourse to the reclassification of his job.

"It's just saying you can't bring it in the Office of Administrative Hearings," Finarelli said.

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