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**The Employer  
Advisory**

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**Employment Case Analysis You Can Use**

**THE SEVENTH CIRCUIT AFFIRMS DISMISSAL OF EMPLOYMENT DISCRIMINATION  
SUIT BASED ON PRIOR ADJUDICATION OF PENSION CLAIM.**

Jose Garcia was a police officer for the Village of Mount Prospect, Illinois for 14 years. During his tenure, Garcia contributed to the Village's pension fund administered by the Pension Board. Garcia suffered a heart attack that left him totally and permanently disabled. Garcia was unable to return to his duties as a police officer and applied to the Board for duty-related disability benefits equal to 65% of his total salary. After reviewing physicians' reports and other evidence, the Board determined that Garcia's disability had not occurred in the line of duty and awarded Garcia non-duty-related benefits equal to 50% of his total salary.

Garcia filed a complaint for administrative review of the Board's decision to the Circuit Court of Cook County claiming that the Board's decision was against the manifest weight of the evidence and was arbitrary and capricious. Garcia never alleged employment discrimination based on race or national origin. The judge heard oral arguments, reviewed the record and affirmed the Board's decision.

While the administrative appeal was pending, Garcia filed Title VII claims of retaliation and employment discrimination based on race and national origin with the Equal Employment Opportunity Commission. Garcia had previously testified in a lawsuit filed by a Hispanic police trainee against the police department. He asserted that this testimony was the reason behind the Board's denial of his duty-related benefits. The earlier lawsuit settled, but the judge was outraged by the racial profiling practices of the police. He wrote a letter to the Department of Justice recommending an independent investigation. It was unclear what role, if any, Garcia's deposition testimony had on the outcome of the case.

The EEOC issued Garcia a right-to-sue letter. Garcia filed a complaint in the Northern District of Illinois alleging violations of Title VII. The District Court judge dismissed the case for lack of subject matter jurisdiction and Garcia appealed.

The Seventh Circuit affirmed the dismissal but on different grounds. The court held that the doctrine of "res judicata" applied. The subsequent claims were precluded because the "operative facts" of those claims had already been adjudicated in Garcia's administrative appeal and Garcia had had a full and fair opportunity to litigate the matter. The operative facts were the acts of the Board and police leading up to the Board's decision to deny Garcia's duty-related benefits. If Garcia believed the Board's decision was discriminatory, he should have joined his employment discrimination claims with his administrative appeal. A plaintiff alleging a number of claims arising out of the same set of facts must join them in one lawsuit otherwise that plaintiff would be able to litigate his claims piecemeal. Because the state court had already issued a final decision on the Board's denial of benefits, Garcia was precluded from re-litigating the issue in federal court.

**Illinois courts hearing administrative appeals have jurisdiction to hear federal civil rights claims once the administrative remedies for the civil rights claims have been exhausted.**

Garcia v. Village of Mt. Prospect, No. 02-2869, (7<sup>th</sup> Cir.), February 23, 2004. (KAA)