

Know what's free speech, insubordination

Employees who work for government agencies have a few additional rights that privately employed workers don't enjoy. One is the right to speak out on matters of public importance. That right, however, is quite limited.

Even so, some public employees think they can say anything about their supervisors and not be disciplined. That just isn't so.

In fact, if public employees are speaking out about matters that fall within the purview of their jobs, chances are it isn't protected free speech.

Recent case: Rita Cindrich worked as an attorney for the Pennsylvania Attorney General in the Charitable Trusts and Organizations Section. She often disagreed with her supervisors about how to best ensure the fair administration of charities.

For example, she complained to supervisors about outside attorneys who acted in ways she considered unethical.

Sometimes her complaints led to her removal from cases. Once, she was ordered to contact the employee assistance program to get a psychological examination.

Apparently, Cindrich's series of complaints about various charities were very similar, and management became impatient with the same issues being raised again and again. Finally, she was told she would be terminated, and she resigned instead.

Cindrich sued, alleging that she had been punished for speaking out on matters of public interest. This, she said, violated her First Amendment right to free speech.

After carefully evaluating each instance of alleged "free speech," the 3rd Circuit Court of Appeals concluded that Cindrich's complaints weren't covered. It characterized her complaints as reflecting nothing more than "the quintessential employee beef: management has acted incompetently." It tossed her case. (*Cindrich v. Fisher, et al.*, No. 06-2615, 3rd Cir., 2009)