

Jury rejects discrimination lawsuit against Malverne school officials

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Malverne superintendent James Hunderfund at the budget meeting on Tuesday, March 25, 2008 in Malverne. (Credit: Howard Schnapp)

A federal jury has rejected a mathematics teacher's allegations of racial discrimination by Malverne public school officials.

"We are grateful that the jury carefully examined all the evidence and came to what we believe was the correct decision," Superintendent James Hunderfund said in a statement.

He and Assistant Superintendent Rose Ricca were named in the suit middle school teacher Kenneth Smith of South Hempstead filed in September, 2014, alleging racial bias when he was not promoted or reassigned another class.

Steven Morelli, the attorney for Smith and two other plaintiffs, did not immediately return calls, and Smith could not be reached.

Brian S. Sokoloff of Carle Place's Sokoloff Stern, which represented the defendants — the superintendent, a principal, two assistant principals and a department chair — said in a statement that the eight-person jury "was asked to determine whether the District and its administrators' actions violated federal anti-discrimination laws.

"The jury unanimously found that Mr. Smith's race was not a motivating factor in the decision not to promote him or to reassign him an additional class."

The case was tried in three days before United States District Judge Joan M. Azrack in Central Islip. The verdict was issued on Wednesday.



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Originally, Smith's case was filed along with that of two other black faculty members. Betsy Benedith, 45, of Brooklyn, a former assistant principal, said in court papers that she was denied tenure and fired because of race. Sherwyn Besson, 46, of Lakeview, a business teacher, said, like Smith, that he was denied promotion and opportunities for extra pay because of racial discrimination.

Neither Smith nor Besson was fired, but Besson said he quit after he was reduced to part-time work with no medical benefits.

In 2014, district officials requested and were granted three separate trials. The other cases are pending.

Benedith was allowed to continue with the original suit, begun in December, 2011, while Besson and Smith had until Sept. 15 to file separate actions, U.S. District Court Judge Arthur Spatt in Central Islip said in a decision dated Aug. 15, 2014.

Of one administrator, described in the suit as a black person, Spatt wrote in 2014 that there is "evidence" that he used a racial slur against Benedith.

Spatt, in allowing the suits to proceed separately, added: "The fact that the source of this racial slur was black as well does not alter this Court's determination that a reasonable jury could find that the working environment was objectively hostile."

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