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Local & State

Judge won't revoke layoffs

But court says state employees are entitled to hearings

By Bill Cotterell
DEMOCRAT SENIOR WRITER

A circuit judge refused to reverse state layoffs Thursday but said employees are entitled to hearings if they suspect favoritism was shown in deciding who would lose jobs.

Three Department of Juvenile Justice employees who are active in the American Federation of State, County and Municipal Employees said they were targeted for layoff because of their union

activism. One of the plaintiffs in the lawsuit said he was reinstated Thursday, but two women said they are having a hard time finding new jobs.

"I'm denying the petition for a temporary injunction," Judge Nikki Ann Clark said. "But it seems to me that the employees are entitled to a hearing as to whether or not



Clark

their rights have been violated.

"It's hard for me to imagine that the loss of someone's job could not properly constitute irreparable injury. Yet, I am not given any specific authority and don't see where this court would have jurisdiction to consider this labor dispute."

Clark said the Public Employee Relations Commission, not circuit court, is the proper place for AFSCME to contest layoffs. Under the new Service First state

employment rules, which took effect July 1, PERC was moved to the Department of Management Services and its ability to hear lay-off appeals was curtailed.

DMS attorney Mike Mattimore said the law still permits the union to appeal unfair labor practices to the three-member panel. He said employees also can challenge any state action they think violates labor contracts or their rights.

AFSCME attorney Alma

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LAYOFFS

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Gonzalez-Neimeiser said the union has filed grievances within the Department of Juvenile Justice for some employees, "but we recognize that it's an exercise in futility." She said Service First makes it hard for laid-off employees to fight for their jobs.

"These employees are now going to be asked to take on an unfair

labor practice charge procedure, which is very technical and very complicated," she said. "But the union will stand by those employees and we will, if necessary, file 680 unfair labor practice charges to make sure that they get the remedy and relief that they're entitled to."

DJJ laid off about 400 employees Jan. 4 because of budget cuts made in the special session in early December. Previous legislative action resulted in elimination of food-service and home-detention jobs Dec. 31. AFSCME said about 280 employees —

although DJJ said the final figure was 204 — were affected by that cut.

Lorraine Mitchell-Harris, a community youth leader who was laid off after 14 years with the state, said the state "made no real effort" to help many DJJ employees find other jobs. Gloria Jackson, who would have marked 32 years with the state in March, said appealing to the Public Employee Relations Commission is a slow and daunting process for laid-off workers.

"It was favoritism," she said.

"They picked friends to stay and laid off whoever spoke out about things."

Mike Gibbons, a senior probation officer, said he was reinstated Thursday after filing a grievance that claimed his layoff was "a reprisal" for challenging an employee drug-testing policy at DJJ. Department spokeswoman Katherine Arnold said "that's unfounded — there's been no reprisal" in deciding whom to lay off.

"I get to go back in there with the flag wrapped around me,

singing, 'We shall overcome,' but I'm worried about these ladies," Gibbons said. "I'm worried about 600 others, too."

Clark's ruling was the state's second victory in defending Service First.

Judge Kevin Davey threw out parts of an AFSCME suit Dec. 28, but told the state to justify elimination of seniority-based "bumping" and changes in disciplinary rules. Another hearing in that case is expected in April.

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