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FIRST AMENDMENT RETALIATION - MISSISSIPPI

Advanced Technology Bldg. Solutions, LLC v. City of Jackson, Miss.

United States District Court, S.D. Mississippi., Northern Division - January 2, 2015 - Slip Copy - 2015 WL 46167

Advanced Technology Building Solutions (ATBS) filed a First Amendment retaliation lawsuit against the City of Jackson after it was unable to obtain funding for an urban redevelopment project. A jury awarded damages in the amount of \$600,000 to ATBS. The City filed a Motion for Judgment Notwithstanding the Verdict, asserting that its policymaker, the City Council, never had the opportunity to decide whether to grant funding to ATBS, because ATBS's request for funding stalled while under consideration by a separate entity, the Jackson Redevelopment Authority (JRA).

The District Court granted the City's Motion, finding that ATBS had failed to present any evidence that the City of Jackson, through its duly elected City Council, committed an "adverse action."

"The bulk of Plaintiff's evidence at trial centered around the individual conduct of the Mayor and his communications with the director and individual members of the JRA. ATBS's contention that the City of Jackson should be held liable for the Mayor's actions because a separate entity, the JRA, may have delegated some authority to the Mayor was without merit. The Mayor's interaction with the JRA director and the JRA board members, no matter how those actions are characterized, cannot bind the City of Jackson without the approval of the Jackson City Council."

"Because the City Council never decided to deny ATBS's request for funding, ATBS cannot demonstrate that the City of Jackson, through official policy or act, committed an adverse action. An adverse action by the City of Jackson is an essential element of a First Amendment retaliation claim, and absent such proof the jury's verdict in this matter must be set aside. For the foregoing reasons, the Court finds that the City of Jackson is entitled to judgment as a matter of law."