

Update: Nick Rolovich Lawsuit

By Martin J. Greenberg

On or about November 1, 2022, an article was posted on Greenberg's Coaching Corner entitled Nick Rolovich: Termination for Covid-19 Vaccination Refusal. Shortly thereafter, on or about November 14, 2022, Rolovich as Plaintiff filed a complaint in the Superior Court of Wittman County in the State of Washington naming Washington State University, Athletic Director Patrick Chun, Governor Jay Inslee as party Defendants. Rolovich sued on the basis that his employer discriminated against his religious beliefs when he was terminated for refusing to comply with a state mandate to get vaccinated against Covid-19.

However, on May 30, 2023, U.S. District Court Judge Thomas O. Rice, dismissed most of the lawsuit stating that "there are 'no facts' to support Rolovich's claim he was terminated because of his religious views."¹ Judge Rice went on to state that "[t]his Court and many others around the country have consistently found COVID-19 vaccine mandates for state employees are facially neutral and generally applicable, and terminating an employee for failing to comply with a vaccine mandate is a permissible employment action."²

With respect to Athletic Director Chun's dismissal, Judge Rice found that the Athletic Director did not make the final determination with respect to Rolovich's employment, and that the decision was made instead by WSU President Kirk Schultz.³ Judge Rice also indicated that the facts did not support Rolovich's claim that AD Chun had impermissibly interfered with the exemption review process.⁴ "The Judge stated there is no indication Chun told Plaintiff that he could not apply for a religious exemption" nor did he undertake actions that prevented Plaintiff from applying for the exemption.⁵ "Even taking Plaintiff's allegations of Chun's hostility as true, the facts do not demonstrate Chun undertook actions to substantially burden Plaintiff's practice of religion. Mere hostility is insufficient to demonstrate the level of coercion necessary to maintain a Section 1983 claim for free exercise violation."⁶

With respect to Governor Inslee, Judge Rice's decision to dismiss the Governor from the case became a formality after Rolovich's attorney, Ryan Fahling, said in Court documents that he did not oppose the dismissal.⁷ It should be noted that Judge Rice permitted three of Rolovich's claims

¹ Brent Schrottenoer, *Judge dismisses most of former Washington State coach Nick Rolovich's lawsuit over firing*, USA TODAY, May 31, 2023, <https://www.usatoday.com/story/sports/ncaaf/pac12/2023/05/30/nick-rolovich-washington-state-firing-lawsuit-mostly-dismissed/70271526007/>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

against WSU to proceed towards trial, including breach of contract, state wage law violations, and religious discrimination.⁸

⁸ James Hanlon, *Federal judge dismisses Inslee, Chun from former WSU football coach Nick Rolovich's lawsuit*, THE SEATTLE TIMES, May 30, 2023, <https://www.seattletimes.com/sports/federal-judge-dismisses-inslee-chun-from-former-wsu-football-coach-nick-rolovichs-lawsuit/>.