AFJ NOMINEE SNAPSHOT

AMY ST. EVE

U.S. Court of Appeals for the Sevent Circuit

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INTRODUCTION

On February 15, 2018, President Trump nominated U.S. District Court Judge Amy J. St. Eve for a seat on the U.S. Court of Appeals for the Seventh Circuit. St. Eve was nominated to replace Judge Ann C. Williams, who took senior status on June 5, 2017. Since Judge Williams, who was the first African-American judge to sit on the Seventh Circuit, retired, there have been no African-American judges on the court.

St. Eve's record contains over 1,800 cases. This snapshot highlights several, including cases that address workers' rights, the Americans with Disabilities Act, and other important rights, that we believe are worthy of scrutiny by the Senate Judiciary Committee. Alliance for Justice asks the committee to ensure that St. Eve has a strong commitment to civil rights and a balanced view of criminal justice.

BIOGRAPHY

St. Eve attended both Cornell University and Cornell Law School, where she obtained her J.D. in 1990. After law school, St. Eve was an associate at Davis Polk & Wardwell until 1994. From there, she joined the Office of Independent, working on the "Whitewater" prosecutions of Jim and Susan McDougal, then-Arkansas Governor Jim Guy Tucker, and Webster Hubbell.

In 1996, St. Eve became an assistant U.S. attorney for the Northern District of Illinois. She prosecuted cases there until 2001, specializing in health care fraud. From 2001 to 2002, she worked as a senior counsel at Abbott Laboratories. Since then, she has also served as a part-time adjunct professor at Northwestern School of Law, teaching trial advocacy.

In 2002, President George W. Bush nominated her to serve as a United States District Court judge for the Northern District of Illinois, and she was confirmed by the Senate in August 2002.

As a district court judge, St. Eve has had a number of high-profile cases, including *Goldberg v. 401 North Wabash Venture LLC*, 09-cv-6455 (N.D. Ill.), where the Trump Organization was accused by an 87-year-old woman of having "'lured her into signing' agreements to purchase two units" in Trump Tower Chicago through "misrepresentation" of the units' ownership status. St. Eve oversaw the jury trial for fraud, which found for Trump. Donald Trump tweeted about St. Eve's decision when she dismissed the remaining claims.

In *United States v. Salah*, 462 F. Supp. 2d 915 (N.D. Ill. 2006) and *United States v. Marzook*, 435 F. Supp. 2d 708 (N.D. Ill. 2006), St. Eve oversaw well-publicized jury trials of U.S. citizens who were accused of being "part of a

long-running conspiracy to finance Hamas activities in Israel[.]" St. Eve also lists among her "most significant cases" *United States v. Levine*, 05-cr-691 (N.D. Ill. Nov. 12, 2008), the trial of real estate developer Tony Rezko who was convicted for his involvement with the Rod Blagojevich scandal.

In *Price v. City of Chicago*, 2017 U.S. Dist. LEXIS 519 (N.D. Ill Jan. 4, 2017), St. Eve ruled for the "Pro-Life Action League" and "The Live Pro-Life Group" in a dispute with the Chicago Police Department stemming from protests outside of family planning and Planned Parenthood clinics.

And, in *Triune Health Group, Inc. v. United States Dept. of HHS*, 2013 U.S. Dist. LEXIS 107648 (N.D. Ill. Aug. 22 2013), St. Eve granted a preliminary injunction to an employer that refused to provide contraceptive coverage to its employees in violation of the Affordable Care Act (ACA). The employer, a for-profit corporation specializing in "facilitating the re-entry of injured workers into the workforce," claimed that the group plan under the ACA providing coverage for contraceptives, sterilization, and abortion violated the Religious Freedom Restoration Act (RFRA).

LEGAL AND OTHER VIEWS

I. WORKPLACE DISCRIMINATION

In 2015, the U.S. Equal Employment Opportunity Commission (EEOC) sued Autozone, Inc. for violating Title VII of the Civil Rights Act of 1964 by discriminating against an African-American employee. *See* *United States EEOC v. Autozone, Inc.*, 2015 U.S. Dist. LEXIS 101347, at *1 (N.D. Ill Aug. 4, 2015). The EEOC alleged that Autozone "used race as *the* defining characteristic for sorting employees into separate facilities…in order to ensure the racial homogeneity of [two store] locations." *United States EEOC v. Autozone, Inc.*, 875 F.3d 860, 861 (7th Cir. 2017) (Wood, C.J., dissenting). Specifically, the EEOC alleged that Autozone had transferred an African-American employee, Kevin Stuckey, from the "Hispanic store" to the "African-American store" as part of this discriminatory policy. *Id.* St. Eve granted Autozone's summary judgment motion, finding that Stuckey had not suffered "material adversity" in being transferred to the predominantly black store. *See* *Autozone, Inc.*, 2015 U.S. Dist. LEXIS 101347, at *13-15.

A panel of the Seventh Circuit affirmed, and a majority of the Seventh Circuit, including Trump appointee Judge Amy Coney Barrett, denied the petition for rehearing en banc. However, three judges dissented, with Chief Judge Diane Wood writing:

> This case presents a straightforward question under Title VII of the Civil Rights Act of 1964: Does a business's policy of segregating employees and intentionally assigning

> members of different races to different stores 'tend to deprive any individual of employment opportunities' on the basis of race? The panel answered this question "not necessarily." I cannot agree with that conclusion.

Chief Judge Wood continued:

> Under the panel's reasoning, this separate-but-equal arrangement is permissible under Title VII so long as the "separate" facilities really are "equal."... That conclusion, in my view, is contrary to the position that the Supreme Court has taken in analogous equal protection cases as far back as *Brown v. Board of Education*, and it is contrary to the position that this court took in *Kyles v. J.K. Guardian Security Services, Inc*.

Autozone, Inc., 875 F.3d at 861 (Wood, C.J., dissenting) (internal citations omitted).

The Seventh Circuit previously overturned a ruling by St. Eve for an employer in a workplace discrimination suit in *Todd v. Kohl's Dep't Store*, 490 F. App'x 824 (7th Cir. 2013). In *Todd*, an employee alleged that Kohl's Department Store discriminated against him for his age when it failed to promote him, failed to stop harassment against him, and eventually fired him in retaliation for bringing suit against them. *Id.* at 824. Judge St. Eve dismissed the suit, finding that the claim was precluded by a previous workplace discrimination suit brought by the employee against Kohl's before his firing. However, the employee, Todd, alleged that his firing did not occur until *after* the first suit. *Id.* Accordingly, the Seventh Circuit found that "Todd's claim that Kohl's unlawfully fired him because of his age and in retaliation for filing his earlier suit[]" was not precluded, and remanded the case. *Id.* at 825.

The Seventh Circuit also reversed St. Eve's dismissal of claims brought by an employee, William Shaffer, under the Family and Medical Leave Act in *Shaffer v. AMA*, 2010 U.S. Dist. LEXIS 38276 (N.D. Ill. Apr. 19, 2010). Shaffer claimed that, "soon after [he] requested leave in light of upcoming surgery... [h]is supervisor decided that Shaffer would now be the employee let go in the department, and Shaffer contends that decision was prompted by his request for leave and was therefore improper[.]" *See Shaffer v. AMA*, 662 F.3d 439, 440 (7th Cir. 2011). St. Eve found that "no reasonable juror could find that the Defendant's reasons [for firing Shaffer] were pretextual," and granted summary judgment for the employer. The Seventh Circuit reversed, finding that St. Eve erroneously granted summary judgment since "a reasonable jury could find in [Shaffer's] favor[.]" *See Shaffer v. AMA*, 662 F.3d 439, 446 (7th Cir. 2011). *Id.* at 446.

II. RIGHTS OF PEOPLE WITH DISABILITIES

In 2015, after St. Eve dismissed a discrimination suit under the Americans with Disabilities Act (ADA), the Seventh

Circuit reversed. *See* *Reed v. Illinois*, 808 F.3d 1103 (7th Cir. 2015). The plaintiff, Linda Reed, who suffered from an untreatable neurological condition characterized by involuntary movements, claimed that a state circuit court judge in Illinois had failed to allow her sufficient accommodations during her *pro se* personal injury action in his court. *See* *Reed v. Illinois*, 2014 U.S. Dist. LEXIS 30381, *2-4 (N.D. Ill. Mar. 10, 2014). The jury in the personal injury action found in favor of the defendant, and Reed filed a motion for a new trial. *Id.* at *4-5. Reed argued that the trial judge had exacerbated her disability during the trial through "constant expressions of exasperation and impatience before the jury[,]" telling her to "hurry up" when she was laboring under her impediment, and forcing her to "resort to hand signals, grunts, and other non-verbal signals that are difficult to transcribe to communicate at trial." *Id.* at *4.

While the state court appeal was pending, Reed filed a suit against the state in federal district court for violating Title II of the ADA, which provides a federal remedy for disability discrimination by state governments. St. Eve, finding that the discrimination claim had been rejected in the Illinois courts, wrote that "[t]here is nothing 'unjust' about applying collateral estoppel in this situation[,]" and granted the defendants' motion to dismiss for failure to state a claim. *See Reed*, 2014 U.S. Dist. LEXIS 30381 at *34, 36.

The Seventh Circuit reversed St. Eve's dismissal. In an opinion by Judge Richard Posner, the court observed that, while the threshold requirements for estoppel had been met, the district court had failed to adequately consider that "even when these essential conditions of collateral estoppel are satisfied, the doctrine, as understood in Illinois, is not to be applied 'unless it is clear that no unfairness results to the party being estopped.'" *See Reed*, 808 F.3d at 1108. Not only was "[t]here [] nothing 'fair' in [the state judge's] bestowal of inadequate accommodations," but also a "highly pertinent" ADA regulation had never been invoked during the state proceedings. *Id.* at 1108-1109. As Judge Posner summarized:

> For one court (the state court) to deny accommodations without which a disabled plaintiff has no chance of prevailing in her trial, and for another court (the federal district court) on the basis of that rejection to refuse to provide a remedy for the discrimination that she experienced in the first trial, is to deny the plaintiff a full and fair opportunity to vindicate her claims.

Id. at 1109.

III. CRIMINAL JUSTICE

St. Eve has had a number of criminal cases reversed by the Seventh Circuit.

Illustrative is *Smith v. Dart*, 803 F.3d 304 (7th Cir. 2015), where the Seventh Circuit reversed St. Eve's dismissal of a pretrial detainee's "conditions of confinement" claim. The plaintiff, Donald Smith, brought a § 1983 action alleging that a county jail in Illinois had subjected him to inhumane working and living conditions, including "inadequate food … and contaminated water." *Id.* at 311. After St. Eve had dismissed the claim, the Seventh Circuit reversed, finding that St. Eve

had not considered letters that the defendant had submitted. Again, Judge Posner wrote, concurring in relevant part with the reversal, "These are just allegations. They may be groundless. But I don't understand the district court's deciding to dismiss the complaint in its entirety, and with prejudice, for failure to state a claim." *Id.* at 315.

Later, the Seventh Circuit vacated St. Eve's dismissal of a habeas claim for ineffective assistance of counsel. *See Torres-Chavez v. United States*, 828 F.3d 582 (7th Cir. 2016). After Alfonso Torres-Chaves was sentenced to 14 years imprisonment for drug trafficking, he claimed that six months prior to trial his counsel had advised him that the government had lacked evidence and to reject a plea deal. St. Eve rejected this ineffective assistance claim. But the Seventh Circuit, in a per curiam decision, vacated the decision and remanded for an evidentiary hearing, stressing "that ruling was premature" such that St. Eve could not fairly rule on the motion. *Id.* at 583.

Similarly, in *Dalton v. Battaglia*, 402 F.3d 729, 731 (7th Cir. 2005), the Seventh Circuit overturned St. Eve's denial of a habeas corpus petition where a man claimed that he was misinformed of his eligibility for receiving an extended sentence when he pleaded guilty. The Seventh Circuit sent the case back to the district court for an evidentiary hearing on whether a defendant was aware of the extended sentence when he submitted his plea.

Also illustrative are cases where the Seventh Circuit reversed St. Eve due to errors in sentencing. *See United States v. Harrington*, 834 F.3d 733, 737 (7th Cir. 2016) (reversed due to the Seventh Circuit being "unable to understand the reasoning process that led [St. Eve] to reject the government's request for a 25 percent sentence reduction"); *United States v. Vidal*, 705 F.3d 742, 744-45 (7th Cir. 2013) (reversed due to not sufficiently taking into account the defendant's "serious and well-documented" mental health issues in deciding whether to mitigate his sentence); *United States v. Rogers*, 528 F. App'x 641 (7th Cir. 2013) (reversed due to defendant's sentence in excess of the statutory maximum).

CONCLUSION

The Senate Judiciary Committee must carefully examine St. Eve's record before confirming her to a lifetime seat on the Seventh Circuit.