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Labor and Employment Alert: Court Rules That Gun-In-Trunk Law Is an Exception to Employment-At-Will

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Mississippi law generally prohibits an employer from establishing, maintaining, or enforcing any policy or rule that prohibits a person (including an employee) from transporting or storing a firearm in a locked vehicle in any parking lot, parking garage, or designated parking area. Mississippi is also an employment-at-will state, meaning that either the employer or employee may end employment for a good reason, a wrong reason, or no reason at all – except for reasons that have been independently declared legally impermissible. In the past, the Mississippi Supreme Court recognized only two limited exceptions to the at-will doctrine: employees cannot be discharged for refusing to participate in illegal acts or for reporting an employer's illegal acts. In *Swindol v. Aurora Flight Scis. Corp.*, the Supreme Court recently recognized a third exception for employees storing firearms in their vehicles on an employer's property.

Swindol worked for Aurora and one day parked his car in Aurora's parking lot with a firearm locked inside. Aurora learned about the firearm and terminated Swindol that same day for violating a policy prohibiting firearms on company property. Aurora then held a plant-wide meeting and informed its employees that Swindol was a security risk and to notify the police if he was seen near the company. Swindol sued Aurora in federal court for defamation and wrongful discharge. The district court dismissed both claims; as to the wrongful-discharge claim, the court held it was unclear whether the Mississippi Supreme Court would recognize a third exception to the at-will doctrine. Swindol appealed to the Fifth Circuit Court of Appeals.

The Fifth Circuit then certified the following question to the Mississippi Supreme Court: "Whether in Mississippi an employer may be liable for a wrongful discharge of an employee for storing a firearm in a locked vehicle on company property in a manner that is consistent with" Mississippi law. The Supreme Court answered, yes.

The Court found there are provisions in Mississippi law establishing "express legislative action" to protect employees from wrongful discharge for keeping firearms in their vehicles. The Mississippi

Constitution grants its citizens the right to keep and bear arms, which right “shall not be called into question.” Mississippi law further permits the carrying of a firearm within a vehicle and, as noted above, prohibits employers from establishing or enforcing policies that prevent a person from storing a firearm in a locked vehicle. Given this, terminating an employee like Swindol for having a firearm in his locked vehicle is “legally impermissible.” An employer may still restrict an employee from carrying a firearm outside of the vehicle.

This case is important as more states enact laws protecting employees’ right to store firearms in their vehicles when on their employer’s property. Like Mississippi, those laws may provide an exception to a state’s at-will doctrine, which means that employers could face a wrongful-discharge suit for terminating employees who do so.

Contact your Vorys lawyer if you have questions about how a state’s concealed or open carry laws may affect your operations.