

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Jodi Asay v. New Jersey Transit Rail Operations, Inc. and/or New Jersey Transit Rail Corp.; Brotherhood of Locomotive Engineers and Trainmen; James P. Brown; David Decker; Fred Mattison; Alan Antell; Donald Broschart; John Does 1–25

Asay · No. 24-2967 · Decided June 18, 2026

SUMMARY

The United States Court of Appeals for the Third Circuit affirmed summary judgment for New Jersey Transit in Jodi Asay’s Federal Railroad Safety Act retaliation claim. The court held that Asay failed to present evidence that an agent who influenced her termination knew of her protected whistleblowing activity. Temporal proximity and evidence that information was shared with someone at NJ Transit were insufficient to establish the required causal connection.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Judge Hardiman; Judge Bove; Judge Fisher
JURISDICTION	United States Court of Appeals for the Third Circuit
DECIDED	June 18, 2026
DOCKET	24-2967
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jodi Asay appealed from the District of New Jersey's grant of summary judgment to New Jersey Transit Rail Operations, Inc. on her Federal Railroad Safety Act retaliation claim.
STANDARD OF REVIEW	The court reviewed the grant of summary judgment de novo, viewing the facts in the light most favorable to the nonmovant, and affirmed if there were no genuine issues of material fact and the movant was entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	precedential
PARTIES	Jodi Asay v. New Jersey Transit Rail Operations, Inc., New Jersey Transit Rail Corp., Brotherhood of Locomotive Engineers and

TOPICS

whistleblower retaliation employment law standard of review appellate procedure

PRACTICE AREAS

employment law whistleblower retaliation railroad employment

QUESTIONS PRESENTED

1. Whether Asay produced sufficient evidence that an agent of NJT who influenced the decision to discipline or terminate her knew of her protected activity, as required to establish that the activity was a contributing factor under the Federal Railroad Safety Act.
2. Whether the District Court properly granted summary judgment to NJT on Asay's FRSA retaliation claim.

HOLDINGS

1. A plaintiff alleging retaliation under the Federal Railroad Safety Act must show that an agent of the employer who influenced the adverse decision knew of the plaintiff's protected activity; knowledge by the employer as an entity or by any unrelated supervisor or manager is insufficient.
2. Asay failed to produce evidence from which a reasonable juror could infer that anyone who influenced her discipline or termination knew that she had reported NJT's alleged short-turn practice to Liberty Mutual; therefore, summary judgment for NJT was proper.

KEY QUOTATIONS

“That principle applies equally under the FRSA: the plaintiff must show knowledge of the protected activity by an agent of the employer who influenced the adverse decision.” (5)

“Otherwise, that activity could not possibly have been a “contributing factor” in her firing.” (5)

“The temporal proximity between her report to Liberty Mutual and her first disciplinary charge does not suffice because the mere fact that two events occurred close in time does not, on its own, suggest that anyone involved in the latter event knew of the former one.” (6)

FACTUAL BACKGROUND

Asay worked as a locomotive engineer for NJT and reported what she described as a practice of insufficient scheduling time between trips, which allegedly caused employees to cut corners during train inspections. She reported the practice to several organizations, including her union, the Federal Railroad Administration, the New Jersey Department of Transportation, the Governor's office, and a Liberty Mutual-NJT safety meeting. After the meeting, Asay was disciplined for operating a train above the speed limit and later terminated after operating a

train through a stop signal, but the record did not show that anyone who influenced her discipline or termination knew about her protected activity at the Liberty Mutual meeting.

PROCEDURAL HISTORY

Asay exhausted her administrative remedies and sued NJT under the Federal Railroad Safety Act, alleging that NJT terminated her in retaliation for reporting unsafe train-inspection and scheduling practices. After discovery, NJT moved for summary judgment, and the District Court granted the motion. Asay timely appealed to the Third Circuit, which affirmed.

DISPOSITION

affirmed

CASES CITED

- Jean-Paul Weg LLC v. Director of New Jersey Division of Alcoholic Beverage Control, 133 F.4th 227, 232 (3d Cir. 2025)
- Araujo v. New Jersey Transit Rail Operations, Inc., 708 F.3d 152, 157–60 (3d Cir. 2013)
- Daniels v. School District of Philadelphia, 776 F.3d 181, 196–97 (3d Cir. 2015)
- Crosbie v. Highmark Inc., 47 F.4th 140, 145 (3d Cir. 2022)
- Ambrose v. Township of Robinson, Pennsylvania, 303 F.3d 488, 493 (3d Cir. 2002)