Court Finds Disability Must be Sole Reason for Firing

BY CHELSIE A. VOKES • DECEMBER 22, 2017

The United States District Court for the Eastern District of Kentucky recently decided that mere knowledge of an employee's disability is insufficient to establish that the disability was the sole cause of the employee's termination, and therefore discriminatory.

In this case, the University of Kentucky (the "University") terminated Adam Bogart ("Bogart") from his position as a Senior Laboratory Technician in Dr. Ai-Ling Lin's ("Dr. Lin") laboratory. Bogart sued under the Americans with Disabilities Act ("ADA") and Kentucky's Civil Rights Act ("KCRA"), which mirrors federal law. Bogart claimed that the University fired him because he suffered from Tourette Syndrome and dystonia. The University claimed that they terminated him because he mislabeled and swapped numbers in the research data, slept and chatted socially at work, and worked more than forty hours despite warnings not to do so.

The Court dismissed Bogart's federal discrimination claim, holding that the 11th Amendment bars suits for money damages under Title I of the ADA. The 11th Amendment prohibits private litigants from suing entities of the state, including state universities, in federal court.

The Court also granted summary judgment in favor of the University on Bogart's KCRA claim. The Court found that Bogart failed to show that his disability was the sole reason for his termination. Although Bogart believed that his actions were not serious enough to justify firing him, the Court decided that it was sufficient that Dr. Lin considered his actions unacceptable and that he failed to improve his performance after receiving several warnings.

Client Tip: *Although this case suggests that mere knowledge of a disability is insufficient to establish a claim of discrimination, it serves as a reminder that institutions should always be able to explain why they carried out an adverse employment action. It is important to keep detailed records of formal disciplinary proceedings, informal warnings, and the employee's level of responsiveness.*

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