

Employer's Required Fitness-For-Duty Exam did not Violate ADA

2 min read

May 10, 2013

The employee worked as a customer service representative at a call center for the employer. He was responsible for monitoring the performance of frontline call center associates and regularly worked from home.

One day, he attended a meeting at the office with his manager for a routine one-on-one discussion about his job performance. During the meeting, the employee complained about alleged discrimination and mistreatment by various managers and co-workers. He had never complained previously. He became agitated during the meeting, banged his hands on the table, and said someone was “going to pay for this.” The manager reported the conduct, and human resources felt the comment constituted a threat against employees. The company’s security manager suggested that the employee be evaluated by an independent consulting psychologist.

The human resources manager then met with the employee to discuss the employee’s concerns, but he refused to do so. She then inquired as to whether the employee would agree to speak to the consultant who was used to resolve workplace disputes, and he agreed. He then spoke with the independent consulting psychologist, who expressed concern about the employee’s emotional and psychological stability. She recommended that he be placed on paid leave pending further evaluation.

The employee then continued to talk with the psychologist and was ultimately referred to a psychiatrist. During this session, however, he refused to discuss the workplace issues and refused to sign a release allowing the two doctors to confer with one another. The evaluation, therefore, could not be completed. Notwithstanding, the independent consulting psychologist informed the employer that she was concerned about the employee’s level of emotional distress and his ability to perceive events accurately. The doctor recommended a fitness-for-duty evaluation.

The employer informed the employee that as a condition of his continued employment, he must complete an evaluation to identify whether there were any issues that could represent a risk to the safety of others in the workplace. Failure to do so would subject him to termination. The employee ultimately completed the evaluation and was cleared to return to work.

The employee sued his employer, claiming that the requirement that he undergo the fitness-for-duty evaluation violated the Americans with Disabilities Act. The district court granted the employer's motion for summary judgment on the grounds that the evaluation was job-related and consistent with business necessity. Accordingly, it was permissible under the ADA and the employee's claim could not stand. The employee appealed.

The Eleventh Circuit Court of Appeals held similarly. The Court first noted that it agrees with its brethren in the Second, Sixth, Eighth, and Tenth Circuits that §12112(d)(4)(A) of the ADA protects employees who are not disabled because this provision does not refer to a "qualified individual," but instead references an "employee." The Court then reviewed the record and concluded that the employer had a reasonable, objective concern about the employee's mental state which affected job performance and potentially threatened the safety of its employees. The employer had objective evidence from the manager and the medical professionals that the employee was exhibiting signs of mental instability. Since an employee's ability to handle reasonably necessary stress and work reasonably well with others are essential functions of any position, the fitness-for-duty test was job-related and consistent with business necessity.

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