

Employee's Failure to Demonstrate Satisfactory job Performance Renders ADA Claim Invalid

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A part-time janitor did not receive any of the promotions for which he applied, and was later terminated for performance reasons. He sued his employer, claiming that his termination was discriminatory in that it was based upon his mental disability. In reviewing the evidence and ruling on the employer's motion for summary judgment, the court determined that while the employee did have a mental disability and had made a complaint about discrimination, he had significant performance-related issues that contributed to his lack of promotion and his ultimate termination. Because the employee failed to demonstrate that he was meeting the employer's reasonable expectations of the job and performing his job satisfactorily, he could not maintain his claims under the Americans with Disabilities Act. Further, the fact that a supervisor made a comment to him that he "should not be suing [his] employer" if he wanted to get a promotion was not determinative and the remark, alone, did not support his claim for retaliation. This case demonstrates the significance of having well- documented performance records, which, here, helped to overcome a supervisor's "imprudent" remark and ultimately assisted the employer in securing a dismissal in its favor.

Dickerson v. Board of Trustees of Community College District No. 522, No. 08-CV-716 (7th Cir. Sept. 16, 2011).

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ADA, Disability