

The Most Bizarre Employment Discrimination Case of 2002

Man robs store at gunpoint, claims employer made him do it, wins \$5 million award.

When the EEOC told Richard Shick he might wait two years before it could help him with a discrimination lawsuit against his employer, he completely lost control. That afternoon, the Illinois Department of Human Services employee robbed a White Hen convenience store with a sawed-off shotgun and then blamed his employer for the robbery. While serving ten years for his crime, he sued the Department, arguing that a tormenting supervisor's actions constituted sex and disability discrimination. At trial, Shick produced extensive evidence of his female supervisor's relentless hostility towards him and argued that her treatment compelled his felonious behavior. A jury agreed with his "the devil made me do it" argument, and awarded the shotgun-toting (now former) employee over \$5 million in damages. The jury even awarded him lost wages for the period of time he was in prison. Shick v. Illinois Department of Human Services, 307 F.3d 605 (7th Cir. 2002).

So who is this employee turned felon? Shick, a former Army Master Sergeant, suffered from hearing loss and permanent intestinal bleeding as a result of incidents during his twenty years in the Army. He was further plagued by impaired vision, sleep apnea, carpal tunnel syndrome and several other painful maladies. Despite these health issues and the incident with the shotgun, Shick claimed he had a history of mental stability, having been married for over thirty years.

So how did Shick's employer drive him over the edge and into armed robbery? Although his first four years working at the Department went smoothly, things changed after a new supervisor was hired. Remaining especially insensitive to Shick's need for frequent bathroom breaks caused by intestinal disease, his supervisor strictly applied office rules against him while showing leniency towards female employees. The supervisor also replaced a favorite chair Shick found helpful for his height and obesity, and occasionally banged on the bathroom door because she thought he had been in there too long. She was even unsympathetic to his hearing problems, placing a noisy copier machine near his desk and forcing him to buy his own batteries for the sound amplifier on his work phone.

In reviewing the case, the Chicago appeals court threw out the verdict. The Court found that the Department could not be sued for disability discrimination by Shick because the 11th Amendment granted states (and their agencies) immunity from such suits by individuals. In line with that decision, the Court ordered a new trial on the sex discrimination case that would preclude any evidence of disability discrimination (the Court finding that such evidence was unfairly prejudicial to the Department).

The Court also rejected the jury's acceptance of Shick's "the devil made me do it" argument. Holding that "Shick cannot recover from the defendants for damages resulting from his conviction and incarceration," the Court also threw out the damage award in his favor.

Richard Shick is still serving the remaining time on his ten-year prison sentence. His claim of sex discrimination was recently tried to a jury. On May 14, 2003, the jury ruled in favor of the Department, thus ending (for now) the most bizarre employment discrimination case of 2002.

For More Information

If you have any questions or would like a specific situation explored in more detail, please contact David N. Michael at 312/236-3003 (or by e-mail at dmichael@gouldratner.com).

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