

“YOU LIE, YOU DIE” – DISHONESTY DERAILS DISCRIMINATION CASE

Insights
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It’s an expression you hear often among police officers and other sworn employees: “You Lie, You Die.” That is, if you are caught being deceptive about any work-related subject, you will be terminated and your career will be over. This concept was endorsed in a recent appeals court case that can teach lessons to all employers about the importance of honesty in the workplace.

Workplace Rivalry Leads To First Act Of Deception

Richard Mattessich was a police officer with the Weathersfield Township Police Department in Ohio for 17 years before several acts of deception ended his career. In late December 2010, Mattessich applied for a promotion to a sergeant position. The day before he was to be interviewed for the job, he informed his Captain that a fellow applicant, George Antonell, has been late to work the night before and had displayed “attitude” when confronted about his tardiness.

When management asked Officer Antonell about the allegations, he denied having been late and said he had not even spoken to Mattessich the previous evening. The Captain reviewed video records which confirmed that Antonell had, in fact, been on time. The Chief of Police asked Mattessich about the situation, and Mattessich admitted that he was upset that Antonell had even applied for the sergeant position and that the rival candidacy “got in my head.”

The Chief concluded that Mattessich lied about the incident, presumably as part of an effort to secure the promotion for himself, and considered terminating his employment. However, due to Mattessich’s years of service with the

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department, the Chief gave him a second chance. He did punish Mattessich with a 30-day suspension, and required him to undergo a psychiatric evaluation to confirm he had the emotional stability to handle the job. During the suspension, a health care provider concluded that Mattessich needed time off, and he was on sick leave for the next nine months.

Fitness-For-Duty Questions Lead To Termination

In September 2011, Mattessich returned to work and passed a fitness-for-duty exam. However, within days of his return, his supervisors and fellow officers grew concerned about Mattessich's performance. They observed he was timid, hesitant, and lacked confidence, with one officer saying that Mattessich seemed "dazed" and "out of it" when they went on a call together. During a meeting with his superiors, Mattessich assured them he was fine, and under further questioning, denied that he had gone to mental health counseling during his leave.

His story unraveled about a month later when an email surfaced between his union representatives and the Chief discussing counseling sessions Mattessich attended while on leave. In fact, Mattessich also sought medical help for depression during the leave and was prescribed medication. At a meeting to discuss these revelations, he admitted to the Chief, "I lied to you."

The Chief could not tolerate this act of deception, and despite Mattessich's long tenure and solid performance as an officer, he terminated Mattessich's employment. He indicated that he could not trust a dishonest employee, especially when honesty and integrity were essential parts of the job. Mattessich filed a disability discrimination lawsuit alleging that the real reason for his termination was his mental health condition.

Two Courts Uphold Termination

In June 2015, the trial court dismissed Mattessich's case, ruling that his dishonesty was the true motivation behind the termination. And on February 8, 2016, the Ohio Court of Appeals upheld the termination. The court concluded that, although Mattessich's "depression" was mentioned during the termination discussions, that was only as evidence to provide background into the basis of his deception. There was no evidence that the termination decision was motivated by his mental health status.

The court noted that the employer had returned Mattessich to work once he received his return-to-work clearance, demonstrating that it was using objective information in making employment decisions. The court said that just because the employer knew about some mental health condition did not automatically mean that any subsequent adverse decision it made would amount to discrimination; without causation, Mattessich had no case.

“You Lie, You Die” Is A Good Employment Philosophy

There’s no doubt that honesty and integrity are important when it comes to police work. After all, officers need to routinely interact with members of the public, court personnel, criminal prosecutors, hostile criminal defense attorneys, and fellow police officers. If an officer’s credibility could be called into question, it would seriously disrupt the business of running a police department.

But that doesn’t mean that other employers can’t follow the same philosophy. Indeed, credibility and trustworthiness are crucial components in any employment relationship. Just because your company isn’t in the business of putting bad guys in jail doesn’t mean that you can’t enforce an honesty policy. There are many reasons why truthfulness is a key foundation towards the way your employees interact with you, your customers, and each other.

The Ohio Court of Appeals noted that the Weathersfield Police Department routinely disciplined workers who had been caught committing acts of deception, which is one of the reasons it upheld the termination. Similarly, consistency in the application of your conduct policies is paramount when it comes to avoiding discrimination claims. Train your managers to take honesty seriously and to enforce your company policies in an even-handed manner.

This case also teaches a good lesson about acting on objective information rather than relying on stereotypes and assumptions. The employer was aware that the employee took nine months off for a mental health reason. However, rather than harbor any bias against him, it welcomed him back to the workforce once he had medical clearance to return and put him back in the same job. And once the employer had doubts about his ability to do the job, it started a conversation with the employee rather than acting first and asking questions later. These were key elements in the court victory.

Finally, this case also demonstrates that if you have legitimate reasons to terminate an employee – in this case, dishonesty – you can usually proceed with your disciplinary action despite the existence of a protected status. As long as you treat your workers consistently, you don't have to treat them with kid gloves despite their disability status, age, gender, race, or any number of other protected classes.

If you have any questions about this case, or how it may affect your business, please contact your Fisher Phillips attorney.

This Legal Alert provides an overview of a specific court decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.