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Mental Disabilities Present Unique Problems for Employers

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Employers faced with employees who exhibit conduct that may be due to a mental disability often have difficulty assessing their obligations under the Americans with Disabilities Act, such as whether the employee is disabled, whether the employee can perform the essential functions of his or her job and whether an accommodation is necessary and/or reasonable.

Compounding the difficulties presented, these determinations must be made on a case-by-case basis and are necessarily fact intensive. Courts often reach conflicting decisions on seemingly similar facts.

A recent case decided by the 8th U.S. Circuit Court of Appeals highlights the difficulties employers face when confronted with employees with mental disabilities. *Battle v. United Parcel Service, Inc.*, 2006 WL 387273 (8th Cir. 2006).

Battle was employed as a package division manager for UPS. He supervised approximately 600 employees at 11 UPS centers to ensure that they met monthly performance goals. His main source of information was a daily operations report that detailed performance statistics for each center. Division managers were required to focus on the worst performers and determine why goals were not met, why problems occurred and how best to correct them. The division manager then reported proposed solutions, as well as other statistics, to the district manager.

In February 2003, Dwayne Meeks became Battle's district manager. Battle claimed Meeks required him to research and memorize extensive, unpredictable and useless information from the daily operations report, and if he did not answer the questions asked, Meeks berated him in front of other employees. Battle became increasingly frustrated and depressed and eventually

suffered a nervous breakdown. He requested and took a leave of absence for job-related stress.

Shortly before his leave expired, Battle informed Meeks that it was increasingly difficult for him to understand, concentrate on and perform many tasks that Meeks required prior to his leave. To facilitate his return to work, Battle requested an agenda before each meeting with Meeks and demanded to be returned to his job as it existed before Meeks became his district manager. Alternatively, Battle requested an extended leave of absence.

UPS responded that one of the essential functions of his position was the cognitive ability to concentrate, memorize and recall information. Battle submitted a physician's note stating that he was substantially impaired in his ability to think and concentrate and that he could return to work with appropriate accommodation. At UPS's request, Battle submitted an accommodation form, with a second physician report that stated he could perform all essential job functions but needed an accommodation to perform the "marginal" function of memorizing "minute, unpredictable information" from the daily operations report.

In a meeting with UPS's workplace planning manager, Battle repeated that he could perform all essential functions of his



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position, but that he could not perform the “marginal” task of memorizing data from the daily operations report. Battle again requested an agenda before each meeting with Meeks and advance notice before Meeks asked him about anything unrelated to the “normal flow of business.”

UPS told Battle that it needed more information about the proposed agenda and a better definition of “outside the normal flow of business.” Battle asked for a job description to better define his requested accommodation. UPS told Battle that it could not provide that information. That same day, Battle’s physician advised UPS that Battle was fully capable of performing all essential job functions.

UPS then requested a medical certification that Battle could adequately perform his job without accommodation and that Battle explain his request for an agenda. Battle sent UPS a physician’s report indicating that he could return to work in a “normal workplace environment.” UPS then returned Battle to work without accommodation, where Battle worked successfully under Meeks.

Shortly before his return to work, Battle sued UPS, claiming, among other things, that UPS failed to reasonably accommodate his disability. The jury found in favor of Battle on his failure to accommodate claim.

On appeal, UPS argued that Battle was not disabled under the ADA. An individual is considered disabled under the ADA if he or she has a physical or mental impairment that substantially limits a major life activity, has a record of such an impairment or is regarded as having such an impairment. 42 U.S.C. § 12102(2). The court concluded that Battle was disabled because his mental disabilities substantially limited his ability to think and concentrate. Evidence from Battle’s physician showed that Battle thought and concentrated at a “laborious rate,” had to spend significant time completing projects and was unable to concentrate on many nonwork matters.

UPS also argued that it engaged in a good-faith interactive process in an attempt to reasonably accommodate Battle’s disorders and that no reasonable accommodation was available. The ADA obligates employers to provide a reasonable accommodation, unless it would impose an undue hardship on the employer. 42 U.S.C. § 12112(b)(5)(A). The ADA also requires employers to engage in good faith in an interactive process with employees to identify the limitations caused by the disability and the potential reasonable accommodations to overcome those limitations. 29 C.F.R. § 1630.2(o)(3).

The court rejected UPS’s arguments that it engaged in a good-faith interactive process and that there was no reasonable accommodation available. The court concluded that UPS should have reinstated Battle when his doctor reported that Battle only required an agenda to assist him with the “marginal” job function of memorizing data from the daily reports. The jury could conclude that memorization was not an essential job function because Meeks testified that he did not require Battle to memorize this information. Battle also presented evidence that his request for an agenda was a reasonable request, particularly given that shortly after Battle returned to work, UPS instituted a similar accommodation for all division managers. By December 2003, UPS had equipped all division managers with a computer-based search mechanism that allowed access to all detailed information needed for their district manager meetings.

In this case, there is no question that UPS engaged in an extensive interactive process with Battle. These efforts allowed UPS to succeed in its argument that Battle’s claim for punitive damages under the ADA was unsupported by the evidence as a matter of law.

However, according to the court, UPS failed to adequately consider the reasonableness of the requested accommodation in light of the medical documentation received. UPS may have been better able to establish that Battle could not perform the essential functions of the job and that there was no reasonable accommodation if it had documented in advance the essential functions of the district manager position in a job description.

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