

MMPI Violates ADA

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COURT RULES USE OF PSYCHOLOGICAL TEST VIOLATED ADA

A 7th U.S. Circuit Court of Appeals panel has ruled that an employer's use of a version of the Minnesota Multiphasic Personality Inventory (MMPI), a psychological test, amounted to a "medical examination" and violated the Americans with Disabilities Act.

The ruling came in the case of *Karraker v. Rent-A-Center, Inc.* In the lawsuit, three brothers accused the company of violating ADA when they sought a promotion to management positions and were rejected.

The company required those seeking promotions to take its APT Management Trainee-Executive Profile, which was a series of nine tests designed to measure math, language skills, interests, and personality traits.

The company eliminated from consideration any applicant who had more than 12 "weighted deviations" on the test. The Karrakers all had more than 12 deviations on the test.

They sued on behalf of the employees at 106 Illinois Rent-A-Center stores, arguing that the use of one component of the APT, a test with 502 questions from the MMPI, violated the ADA.

The case centered on whether the use of the MMPI amounted to a "medical examination." Under the ADA, employers are barred from requiring medical examinations until after the employer has made the applicant a conditional job offer. In addition, when employees apply for a new job within a company, employers cannot require a medical examination before making the individual a conditional offer of the new position, according to the U.S. Equal Employment Opportunity Commission. If an employer withdraws the offer based on medical information, it must show that the reason for doing so was job-related and consistent with business necessity, according to the agency.

The EEOC says that in general, psychological tests designed to identify a mental disorder or impairment qualify as medical examinations, but psychological tests that measure personality traits such as honesty, preferences, and habits do not.

The court said the MMPI test did more than measure personality traits.

"But the MMPI does not simply measure such potentially relevant traits as whether someone works well in groups or is comfortable in a fast-paced office," the panel said. "Instead, the MMPI considers where an applicant falls on scales measuring traits such as depression, hypochondriasis, hysteria, paranoia, and mania. In fact, elevated scores on certain scales of the MMPI can be used in diagnoses of certain psychiatric

disorders."

However, the company argued that it used the MMPI test only to measure personality traits, not to disclose mental illness.

The panel said regardless of whether Rent-A-Center used "the test to weed out applicants with certain disorders, its use of the MMPI likely had the effect of excluding employees with disorders from promotions."

"Because it is designed, at least in part, to reveal mental illness and has the effect of hurting the employment prospects of one with a mental disability, we think the MMPI is best categorized as a medical examination. And even though the MMPI was only a part (albeit a significant part) of a battery of tests administered to employees looking to advance, its use, we conclude, violated the ADA."

The court noted that the company no longer uses the MMPI test.

Text of the 7th U.S. Circuit Court's Ruling (PDF)

http://www.ca7.uscourts.gov/fdocs/docs.fwx?submit=showbr&shofile=04-2881_029 .pdf