

The U.S. Equal Employment Opportunity Commission

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APPEALS COURT ORDERS TRIAL OF EEOC DISABILITY SUIT AGAINST WAL-MART

Eighth Circuit Says Lower Court Erred in Dismissing Case

KANSAS CITY, Mo. – The U.S. Court of Appeals for the Eighth Circuit today ruled that the U.S. Equal Employment Opportunity Commission (EEOC) may continue its disability discrimination lawsuit against Wal-Mart Stores, Inc. (*EEOC v. Wal-Mart Stores, Inc.*, Case No. 06-1583), reversing a lower court's dismissal of the case.

The EEOC filed suit against Wal-Mart in January 2004 on behalf of Steve Bradley, who has cerebral palsy and uses a wheelchair, after the Wal-Mart store in Richmond, Mo., refused to hire Bradley for any position, including greeter or cashier. A federal judge in U.S. District Court for the Western District of Missouri granted summary judgment to the company in August 2005, finding that the EEOC had not presented sufficient evidence from which a jury could reach a verdict in Bradley's favor. The EEOC then filed an appeal that led to today's ruling.

The decision issued today reversed the lower court ruling and held that the EEOC did present sufficient evidence from which a jury could find that Bradley was qualified to perform the essential functions of greeter and cashier jobs at Wal-Mart. The Eighth Circuit also held that there was sufficient evidence from which a jury could find that Wal-Mart lied about its reasons for not hiring Bradley in order to hide discrimination, and that Wal-Mart failed to prove, as it claimed, that Bradley would pose a "direct threat" to the health and safety of himself or others by working at the store.

Today's ruling is especially significant because it is the first time the Eighth Circuit has decided the issue of whether the employer or the employee bears the burden of proof when the employer claims that the employee poses a "direct threat." The court stated that the burden lies with the employer.

"This decision properly leaves it up to the jury to decide whether Wal-Mart discriminated against Mr. Bradley because of his disability," said Robert Johnson, regional attorney of the EEOC's St. Louis District. "This man was very well qualified to work at Wal-Mart, but the company tried to cover up its discrimination. We look forward to presenting this case to a jury as soon as possible."

The EEOC is responsible for enforcing federal laws prohibiting employment discrimination based on race, color, gender (including sexual harassment and pregnancy), religion, national origin, age, disability and retaliation. Further information about the EEOC is available on its web site at www.eeoc.gov.

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