

## Michigan Court Denies Comp Benefits to Employee Found Guilty of Harassment

---

April 9, 2003

MI High Court Denies Comp Benefits to Employee Found Guilty of Harassment

The Michigan Supreme Court has barred a probation officer disciplined for sexual harassment from receiving workers' compensation benefits for mental depression because it found the employee's injury was caused by his own "intentional and willful action."

In *Daniel v Department of Corrections*, the employee, a probation officer with the Department of Corrections, was disciplined by his employer for sexually harassing four female defense attorneys. The Department of Corrections initiated an investigation into the complaints and found "a strong basis" on which to conclude the employee violated work rules prohibiting sexual harassment. Although the employee denied the allegations against him, he offered nothing in his own defense. Ultimately, the employee was suspended for ten days without pay.

After returning to work, the employee filed a claim for workers' compensation benefits claiming he suffered a mental disability arising from the disciplinary investigation and proceedings. The employee's workers' compensation claim was initially denied. The Worker's Compensation Appellate Commission ("WCAC") found that the employee's injury was "self-inflicted" and that it arose from his own intentional and willful misconduct.

The Michigan Court of Appeals reversed the WCAC decision, finding that the employee's acts did not rise to the level of "intentional and willful misconduct" as contemplated by the Worker's Compensation Statute. The Michigan Supreme Court reversed the Court of Appeals and reinstated the WCAC's denial of benefits.

The Supreme Court agreed with the WCAC that the applicable provision of the Worker's Compensation Statute barred the employee's recovery of benefits. The statute provides, "If the employee is injured by reason of his intentional and willful misconduct, he shall not receive compensation under the provisions of this act." The Court concluded that this language does not require that an injury arise directly as a result of the employee's misconduct. Rather, the phrase barred recovery if the injury was a consequence of the misconduct. Here, the Court concluded, "the disciplinary proceedings, from which [the employee's] mental disability arose, flowed directly and predictably from [the employee's] misconduct as surely as night follows day."

The Court also specifically found that an employee's acts of sexual harassment constitute "intentional and willful misconduct" under the Worker's Compensation Statute. The Court found that the employee's acts were not merely negligence or even gross negligence, and that benefits are precluded under the statute when an employee is injured by his or her own conduct that is of a quasi-criminal nature. Although the employee denied that he made the comments for which he was accused, the Court pointed out that the denials had not been believed by anyone who had reviewed the case. At the employer's disciplinary conference, for example, "a strong basis" was found to support the allegations. For the initial comp claim, a magistrate found that the employee had "brought these troubles on himself by his own misconduct." Later, the WCAC found that the employee "knew what he was doing was wrong" and yet he persisted. Even the Court of Appeals majority called the employee's behavior "voluntary, crude, and unprofessional." With all of this as background, the Supreme Court majority determined that there was a sufficient basis for finding that the

**Continued**

---

employee's behavior rose to the level of moral turpitude that could be called "intentional and willful." Therefore, the majority reversed the Court of Appeals and upheld the WCAC's denial of benefits.

No change in policy or practice is required as a result of this decision. Instead, it highlights yet another reason why it is so important for an employer to monitor sexual harassment in the workplace and to make supportable conclusions based on fact about whether an accused employee engaged in sexual harassment.

To discuss any questions or related issues, please feel free to contact our Labor and Employment Law Group; or Megan P. Norris in Detroit, at (313)496-7594.