

Disability Discrimination: PTSD, Alcohol Not Disabling.

The nurse's physician reported her to the hospital after she came to the physician's home drunk several times.

Hospital human resources gave the nurse time off for treatment and required, as a condition for returning to duty, her signature on a last-chance agreement that she cease alcohol consumption altogether. She was terminated after a co-worker reported the nurse for phoning her off duty while under the influence of alcohol.

First, the nurse failed to establish that her PTSD which started her drinking, and the drinking itself, substantially limited a major life activity.

Second, the ADA excludes active substance abuse from the definition of a disability.

UNITED STATES COURT OF APPEALS
THIRD CIRCUIT
October 21, 2008

The US Court of Appeals for the Third Circuit threw out the nurse's disability discrimination lawsuit.

As to her PTSD and depression, the nurse testified she was having flashbacks and intrusive thoughts from a recent crime victimization.

However, she did not have a substantial limitation of a major life activity within the Americans With Disabilities Act's (ADA) definition of disability.

The court also ruled that a serious health condition which qualifies for Family and Medical Leave Act leave, which the nurse did have, does not necessarily equate to a disability under the ADA.

Current or recurrent active substance abuse is not a disability. ***Nicholson v. West Penn Allegheny Health***, 2008 WL 4636353 (3rd. Cir., October 21, 2008).