AIDS Law: Overruled

Tenth Circuit overturns HIV disclosure case

October 1, 1994 By Fred Bimbler

Utah: The federal court of appeals for the 10th Circuit ruled that disclosure of a person's HIV positive status is a breach of confidentiality, even when it is later determined that the person is HIV negative. A West Valley City, Utah police officer revealed to the unknowing family and friends of someone he arrested that the prisoner was HIV positive, based on papers found during the arrest. Although the prisoner believed at that time that he was positive, it was later determined that he was not. The prisoner sued the city claiming that he sustained great injury as a result of the disclosure, specifically that he was shunned by his family and friends. The federal district court dismissed the suit, finding that the prisoner sustained no injury since he is not HIV positive. Reversing and remanding back to the district court, the 10th Circuit found the fact that the prisoner was HIV negative immaterial to the issue of whether he was damaged by disclosure of the confidential information.

D.C.: 1991's Americans with Disabilities Act (ADA) has become the most important anti-discrimination law for people with AIDS and HIV. Since July 1992, employers with 25 or more employees have been forbidden from discriminating against employees with disabilities -- because of those disabilities -- with regard to hiring, promotion, termination, compensation and other terms and conditions of employment. Last July the ADA's second tier of protections came into effect, extending the law to even smaller employers with 15 or more employees.

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