

Seventh Circuit Ruling Allows Non-Disabled Workers to Seek Backpay Under ADA

Labor & Employment Law Update

By Ann Hanneman on May 8, 2025

The Seventh Circuit (covering Illinois, Indiana and Wisconsin) recently ruled that a non-disabled employee can recover damages under the Americans with Disabilities Act (ADA) when his employer required a fitness-for-duty examination to evaluate his mental health before returning from leave. *Nawara v. Cook County*, 132 F.4th 1031 (7th Cir. 2025).

This decision underscores the importance of properly determining when a current employee can be required to undergo a medical examination as required under the ADA, regardless of disability status.

Factual Background

In 2016, Nawara, an 18-year Cook County Jail correctional officer, had heated altercations with his supervisor followed by contentious interactions with a human resource manager and an occupational nurse. He was placed on a leave of absence and told he could return to work **only** after a fitness-for-duty examination.

Initially, Nawara refused to undergo the medical examination, and his paid leave ended on April 25, 2017. However, he signed the required medical authorization forms in August 2017, successfully completed the fitness-for-duty examination, and returned to work on September 26, 2017.

Nawara sued, alleging that the medical examination requirement and inquiry into his mental health violated the ADA. Although he did not allege he had a disability or a perceived disability, the jury found the medical exam was not job-related or consistent with business necessity and, therefore, his employer was in violation of the ADA. When determining damages, the district court restored Nawara's seniority, but denied backpay damages lost while on unpaid leave.

On appeal, the court affirmed Nawara's seniority restoration, but reversed the lower court's decision denying backpay. Examining the language of the ADA and remedies permitted, the court concluded that the ADA violation found by the jury constitutes "discrimination on account of disability" entitling Nawara to backpay damages. The court ruled no disability or perceived disability was required.

Impact of the Decision on Employers

This decision opens the door to court challenges whenever employers require medical examinations and inquiries of current employees. Employers covered by the ADA in the Seventh Circuit and other jurisdictions where similar rulings have been issued (like the Sixth Circuit covering Michigan, Ohio, Tennessee, and Kentucky) must assure the requirement is job-related and consistent with business necessity, regardless of disability status.

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