

Dunlap v. tennessee valley authority

[Sociology](#), [Racism](#)



Dunlap v. Tennessee Valley Authority Based on Title VII of the Civil Rights Act of 1964 employers are not allowed to discriminate against a potential employee based on race, color, sex, religion, or national origin. In the Dunlap v. Tennessee Valley Authority case this title of the civil rights act was violated. An African American man named David Dunlap who gave almost the exact same answers as white candidates who got the job and who had 20 years of experience in boiler making was not chosen for any of the 10 positions available with the TVA. The issue is not only that he wasn't hired but based on the score sheet he was highly discriminated against. When asked how many days he missed Dunlap told the employers that he never missed days unless sick or having a family emergency, two other candidates who just so happened to be white gave almost the exact same answer. On the score sheet for this question Dunlap was given a score of 3.7 while the other two potential employees were given scores of 4.2 and 5.5. Also when he was asked about how many accidents he had in the field he replied none and was given a low score but another candidate whom had at least two accidents was given a higher score than Dunlap. The issue at hand was that, his score sheet was heavily manipulated putting him in number 14 out of the 21 candidates that had applied. The top ten got hired. Of the top ten potential employees one African American was hired. This man, William Parchmen, stated how he had been trying for years to get employment from the TVA, but didn't succeed up until then. This was because he filed a complaint with the Equal Employment Opportunity Commission (EEOC). (Martin, B.) The Tennessee Valley Authority is at fault because not only did they manipulate the score sheet, but they changed the procedures for the

hiring process. " Despite the fact that TVA policy required that " merit and efficiency form the basis for the selection of job candidates" and " education, training, experience, ability and previous work experience serve as a basis for appraisal of merit and efficiency," the selection committee decided before the interviews began that the interview would account for 70 percent of an applicant's final score and technical expertise would account for only 30 percent" (Gilmore D. B, 2008). This means that though their basis of hiring was supposed to be based on their work ethic they based majority on the interview itself which was not proper protocol. They also picked out how many candidates they would pick for each group: outstanding, well qualified, and qualified. This is something they were not supposed to do either. It is astonishing how the number of outstanding employees equaled the same number of available jobs. Dunlap believes that the reason for him not being hired was based on the fact that he's black and the TVA did not want a black employee that was more qualified than the white ones. The first thing Dunlap did was file a disparate (adverse) impact claim. A disparate impact claim is a claim that " prohibits an employer from using a facially neutral employment practice that has an unjustified adverse impact on members of a protected class. A facially neutral employment practice is one that does not appear to be discriminatory on its face; rather it is one that is discriminatory in its application or effect" (The Free Dictionary, legal). Dunlap claimed that they manipulated their selection negatively affecting minority candidates. This claim failed because Dunlap was not able to prove statistically that his interview was manipulated to cause him to lose the job. There was no proof that a minority group was affected. Dunlap stated that the interview was

rigged to exclude African American in general. This couldn't have strengthened his claim because in fact one African American was hired. The second thing Dunlap did after that claim failed was to file a disparate treatment claim. This claim succeeded. A disparate treatment claim is intentional difference of treatment between individuals because of differences in race, color, sex and etc. In Dunlap's case it was race. He was able to prove that he was well qualified for the job, but instead they hired white employees who had less experience than he did. When he filed this claim the TVA had to prove that he was not intentionally discriminated against. They did this by stating that his scores would not have put him in the top 10 position. Dunlap rebutted by stating that they intentionally manipulated his score. This was proven because after looking at the score sheets the court saw that the scores were changed about 70 times without reasons to support the revisions on the score sheets. They altered the score sheets to represent a more suitable outcome for them. The court of appeals stated to the district court that "[b]ecause of these irregularities, the hiring matrix score offered by TVA as a legitimate reason for Dunlap's rejection cannot be relied upon" and that " discrimination motivated the committee's decision-making"(Gilmore D. B., 2008). The TVA should do quite a few things different when picking and selecting candidates. They should stick to interviewing protocol. Work ethic was majority of what they looked for when they looked for a candidate; they significantly decreased that in what they were looking for in potential employees. Most places like to hire people with work experience. A person with work experience is what makes companies like TVA succeed. In boiler making a person has to know what they are

doing. You cannot just go into the business with a blind eye. If a person is not qualified for this position they could unintentionally cause harm to others or themselves. The TVA should have also filled out their score sheets with honesty and integrity showed actual reasons for changing the score sheets. By changing the score sheets and not having a legitimate reason it strengthen the idea that they based their employment selection not only on who best fit the position, but what nationality that person so happen to be. TVA should have used a scale of 1- 10 and gave people with similar answers the same score. The Tennessee Valley Authority also hurt them by having another African American who had already file a complaint against them, because of discrimination. He was not hired even though he had experience in the area. They waited until after he filed the complaint to hire him. They should have also kept their interviews between the board and the individual quiet. If they had they would have saved a lot of trouble because Dunlap would not have known what other candidate's answers were and what their scores were, causing him to feel as though he was discriminated against.

References Farlex, Inc., Copyright © 2011 Disparate Impact Claim, The Free Dictionary <http://legal-dictionary.thefreedictionary.com/Disparate+Impact>, Gilmore, D. B., (2008), United States: Employer's Manipulation of Hiring Process Proves Discriminatory Intent, <http://www.mondaq.com/unitedstates/article.asp?articleid=64190> Walsh, D. J. (2010), Employment Law for Human Resource Practice: 2010 custom edition (3rd ed.) Mason, OH: South-Western Cengage Learning