

# Report on davis v. the board of county commissioners of dona ana county

[Law](#), [Criminal Justice](#)



- What was the legal issue in this case?

The legal issue in this case is based on the ill will acts which could have been evaded by the two parties involved. As an employee as a confinement officer at the Dona Ana County Detention center, Joseph Herrera becomes accused of inapt sexual relationship with female prisoners as well as exchanging sex for favors to prison inmates. Herrera had been hired by the Mesilla Valley Hospital (MVH) following favorable recommendations by Frank Steel and Al Mochen who were senior supervisors in the hospital. Steel had conducted research on the charges that Herrera was facing and advised him that he was going to be reprimanded. Steel advised Herrera that his performance had been questioned as well as suspected and Herrera was going to face a disciplinary action. Herrera could not await the disciplinary action and he resigned. Six days after recommendations for disciplinary action, Steel addressed a letter on behalf of Herrera stating that he was “ excellent employee and supervisor. I am confident that you would find Herrera to be an excellent employee”(Court of Appeals of New Mexico, 1999).

In the beginning of December 1994, Herrera posted an application for a job with MVH and they contacted the detention center where he worked previously for a reference. Mochen had advised MVH that Herrera was a reliable person as well as a hard worker who he would propose to be rehired. The plaintiff in the case had sued the County indicating that if the correct information about Herrera had been given concerning Herrera’s conduct and insensitivity to work ethic Herrera could not have been employed and the plaintiff could not have been assaulted by Herrera (Court of Appeals of New Mexico, 1999). 2. Why does the court conclude that Dona Ana County could

be held liable for negligent referral (misrepresentation)?

The positive references made the court conclude that Dona Ana County could be held liable for negligent referral which may be referred to as misinterpretation. Herrera acquired an employment position as a mental health technician at a psychiatric care hospital. Six weeks later, Herrera sexually assaulted and physically abused a female who was a patient in the hospital.

Although, Herrera was renowned in the organization to be sexually abusive to women, he obtained positive referral from top supervisors in the organization. In their letters of recommendation, the supervisors had highly praised Herrera of his competence and skills at work. This is total ignorance for these individuals who were recommending Herrera since they were well aware of complaints and charges that he had faced over previous sexual misconduct with students. The court was a bit cautious in undertaking decisions on the case. However, it concluded that employers owe a duty of care to 3rd parties and prospective employer whom are given recommendations. According to the case, every individual has a duty to exercise exclusive care of the safety of other people (Lies, 2008). The court also argued that the assault and battery was connected specifically to the process of hiring Mr. Herrera. The case was neither a remote nor an unrelated incident. The court also concluded that Mr. Steele and Mr. Mochen intentionally misrepresented Mr. Herrera in support of his negative conduct. They owed any person that Mr. Herrera worked with a truthful and reliable response or comment on his behavior (Lies, 2008). 3. Should it have mattered that the former employer's investigation was not able to confirm all

of the allegations against Herrera? Explain your answer.

It would have mattered if the former employer's investigations would not have confirmed all allegations against Herrera. Once the plaintiff goes to court over an issue concerning the defendant, concrete evidence needs be tabled to ensure that the judge who was not involved in the incidence clearly understands what took place and the best decision for the case.

Evidence is a major requirement for any form of ruling to take shape without favor and discrimination. There is no way by which the judge for this case would have come up with a judgment without understanding first what the case entails. Therefore, the plaintiff had to offer excellent proof that Herrera was involved in sexual harassment for inmates as well as the favor filled recommendation that was given by Muchen concerning Herrera. The investigations had to be conducted with no favor for any fact or issue concerning the case (Imber, 2010). The judge must be extremely keen to observe the reliability of the facts tabled before the court concerning the issue. Therefore, the plaintiff has to deliver evidence that is beyond doubts by the judge. However, after conducting exclusive investigations about the false recommendation the plaintiff has to gather exclusive report based on the information that would be given by witnesses. These are individual who have first hand information about an incidence as it took place. They assist the judge to affirm that the information given in the investigation is right and is reliable for making a judgment (Imber, 2010). 4. What practical implications does this decision hold? Are you convinced by the court's claim that this ruling should not make employers more reluctant to provide references?

This decision would be extremely influential to the employment sector with exclusive influence on the employment process. One of the implications that this decision would hold is that not all recommendations are right and should be relied for making choices during recruitment processes for any organization. Beyond, recommendations, individuals should be taken through tests where their upright behaviors will be tested. The individual seeking employment should not have any traces of misconduct which may be hidden. During the recruitment process, it would be wise to consider the relationship between the individual seeking employment and the referee he or she has quoted in the job application letter (Walsh, 2013).

It may also imply that employees need be concerned of the welfare of their counterparts at work. An employee who is well conversant with work ethics must be respectful to the discipline of their colleagues. This would be influential in ensuring that companies do not hire the wrong people out of influence by other employees who may be holding senior positions in the organization.

The claim by the court that employers should not ignore references for employees as they seek employees may not have much impact. Looking at what was happening in this case; employers may come up with a conclusion that most of the referees that people cite in their Curriculum vitae are not real and may not offer reliable information about the employee. The case proves that there are exclusively many similar cases which have never come into light and have exposed companies to employees who are abuse of organizational or work ethics. Organizations or employers would seek other means of verifying an individual's conduct or qualification for a job which

may be through interview detailed on activities which may define an individual's character and behavior. Through personal analysis by the employer he or she decides whether to hire the individual or not to hire (Walsh, 2013). Therefore, the claim by the court may not change the attitude that the employer acquired from the case.

## References

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