

Important Legal Victory For Workers With Diabetes

We're pleased to report yet another win for ADA's Legal Advocacy team. The case, *Rodriguez v. ConAgra Grocery Products Co.*, involves Rudy Rodriguez, a man with type 2 diabetes that is treated with oral medication.

Rodriguez held a temporary position at ConAgra's Ranch Style Beans plant in Fort Worth, Texas. He was offered a permanent position, subject to a physical exam.

ConAgra contracted with a medical clinic to provide exams for new hires. The clinic doctor decided Rodriguez was not medically qualified to work at ConAgra, due to "uncontrolled" diabetes. He based this decision *solely* on an elevated glucose level in a urine test and the fact that Rodriguez could not recall his doctor's name or the name of the medication he was on. The doctor never looked at Rodriguez's medical records, talked with his physician, or gathered the further medical information needed to assess his health status.

ConAgra's human resources (HR) manager used the doctor's report to withdraw Rodriguez's job offer. Neither the doctor

nor the HR manager considered the fact that Rodriguez had worked at ConAgra's plant before without incident, that his own physician considered his illness to be adequately managed, or that diabetes research shows Rodriguez could work at

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ConAgra without presenting a danger to himself or others.

Rodriguez sued. The trial judge threw out the case, accepting ConAgra's argument that the law did not protect Rodriguez because diabetes was a "generally controllable condition" that Rodriguez wasn't "controlling."

On appeal, the Fifth Circuit Court of Appeals disagreed and found ConAgra had, indeed, discriminated against

Rodriguez. The appeals court characterized ConAgra's stance as a "blanket ban" on people with "uncontrolled" diabetes, and held that applying such a blanket ban violates the Americans with Disabilities Act. The court further ruled that a company cannot rely on the opinion of a doctor that is based solely on a cursory exam, rather than on an individualized assessment of the worker.

ADA provided assistance to Don Uloth, the lawyer representing Rodriguez, and filed an *amicus curiae* (friend of the court) brief along with the AARP, Advocacy Inc., and the Coalition of Texans with Disabilities. The brief was written by Dan Kohrman, who is a senior attorney with AARP Foundation Litigation and vice chair of ADA's Legal Advocacy Subcommittee.

"This is a critical victory for people with diabetes," Kohrman said. "The court said loud and clear that personnel policies screening out workers with diabetes are illegal; they can't be justified by the results of assembly-line medicine, or defended based on shoddy science. People with diabetes can't be presumed to pose problems in the workplace. First and foremost, each worker with diabetes has to be evaluated as an individual."

If you believe you are being discriminated against because of your diabetes, contact us at 1-800-342-2383.