

Are Employers Required To Predict Employee Behavior? Wrongful Death Suit Sparks Discussion

January 13, 2017 | [Employment Lessons, Labor And Employment](#)

On Jan. 10, the U.S. Court of Appeals for the Seventh Circuit heard oral arguments involving a wrongful death suit that had been dismissed by an Illinois federal judge. The plaintiff, mother of the deceased victim, sued Home Depot USA Inc. and one of its garden suppliers for failing to protect her daughter from a series of abusive behavior directed at her by her supervisor, Brian Cooper, who allegedly used his superior position to coerce the victim into accompanying him to his sister's wedding nearly 250 miles away in Wisconsin. There, Cooper strangled the seven months pregnant victim to death and raped her corpse. Cooper was found guilty for the murders of the victim and her unborn child, as well as third-degree sexual assault for raping the deceased victim's body. Plaintiff alleged in the oral argument that her daughter made a series of complaints to management, but no action was taken by either company to investigate, monitor, limit or control Cooper in his interactions with the victim. The defendants claimed they could not be held responsible for something that occurred offsite during a nonworking event. All three appeals court judges noted that Cooper had used his position with the company by threatening to fire her if she refused to accompany him, therefore making her attendance to the wedding a work function. The plaintiff's lawsuit alleges that Cooper's behavior created a "reasonably foreseeable risk of danger." Cooper was previously ordered by the defendant to attend anger management classes after an outburst at work where he harassed another female employee and threw items in the store. The defendants argued that they could not have predicted that Cooper's behavior could lead to physical violence. Focusing on foreseeability, the Seventh Circuit's decision could have a significant impact on employers, exposing them to expansive and expensive liability. We will continue to monitor this case to see whether the Seventh Circuit's decision creates new obligations and duties to monitor employees.

RELATED PRACTICE AREAS

Labor and Employment
Management and Employee Training
Workplace Counseling
Workplace Culture 2.0

RELATED TOPICS

Liability
Wrongful Death