

Sexual Assault: Court Upholds Aide's Workers Compensation Claim For PTSD.

A psychological injury, like delayed post-traumatic stress disorder, to qualify for workers compensation as an occupational disease, must be related to a physical injury or to an obvious sudden shock or fright arising out of and in the course of employment.

A physical assault, as a general rule, is considered an "accident" for purposes of workers compensation.

The fact the victim immediately reported the incident to her superiors and gave all the details clearly shows that it was traumatic, frightening and unexpected.

It is not relevant that her employment requires her to interact with dangerous patients, including sex offenders, every day as part of her job. Sexual assault is never a normal occurrence.

COURT OF APPEALS OF VIRGINIA
October 10, 2006

A psychiatric aide working in a facility whose population included committed sex offenders was grabbed, held against a wall and fondled by two of them before she could free herself and get help.

No physical injury occurred. However, she soon started having progressive symptoms of post-traumatic stress disorder including nausea, insomnia, panic attacks, anxiety and irritability and started coming down with frequent chest congestion, coughing and sore throats which her physician linked to stress at work.

Ordinary Job Stress Is

Not an Occupational Disease

At first her workers compensation claim was turned down by her employer. The general rule is that on-the-job stress, even if it results in a psychiatric diagnosis and/or physical symptoms, is not covered by workers compensation.

Stress From A Discrete Traumatic Event Can Be an Occupational Disease

However, the Court of Appeals of Virginia ruled her workers compensation claim should be upheld as valid.

Stress caused by a specific event which, in legal phraseology, is "shocking, frightening, traumatic, catastrophic and unexpected" can lead to post-traumatic stress which should be covered by workers compensation as an occupational disease.

The court threw out the argument discounting sexual assault as a normal occurrence in this work environment. **Southwestern Virginia Mental Health Inst. v. Wright**, 2006 WL 2860976 (Va. App., October 10, 2006).