Americans with Disabilities Act ? HIV Positive Employee Not Disabled Under ADA

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A telephone company customer service representative who was diagnosed as HIV positive while on medical leave for work-related stress is not disabled under the Americans with Disabilities Act, the U.S. Court of Appeals for the Fifth Circuit ruled Blanks v. Southwestern Bell Communications Inc., 13 AD Cases 1253, 5th Cir., 11/4/02). The customer service representative did not meet any of the ADA’s definitions of disability, the court said. His condition did not impair any of his major life activities, including reproduction, since he had decided years before his diagnosis not to father any more children, the court observed. Nor was he substantially limited in his ability to work, the court noted, even though his physician advised him against returning to the stressful customer service job and the only available job within his medical restrictions paid $100 less per week, since his condition affected only his ability to work in one particular job. The employer’s efforts to place him in alternate positions contradict his contention that he was regarded as disabled, the court concluded, and tend to show that he was perceived as unable to perform only one single job as a customer service representative, not a broad range of jobs. This case and others recently issued, are further recent examples of the federal courts continued tightening of the definition of a “disabled” employee, more to the position of management.