California Supreme Court Makes Sure that Identity Theft Pays!

July 2, 2014 - You might think that if you lie to your employer by using a false identity that you wouldn't be entitled to sue your employer for discrimination. After all, you committed a crime to get your job. But a ruling this past week from the California Supreme Court shows that the court sees the law differently. That ruling ensures that, at least for some identity thieves, crime does pay.

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Vicente Salas worked a seasonal job for Sierra Chemical Company. He'd held his job since 2003, and was twice injured on the job. After his second injury, filed a workers compensation claim with the state. Eventually, he was laid off and the company didn't rehire him.

Salas filed a disability discrimination law suit under a California law knows as the Fair Employment and Housing Act (FEHA). As a result of company investigations and discovery during the lawsuit, Sierra discovered that Salas had used somebody else's Social Security number to obtain employment and that he was not legally authorized to work in the United States.

At this point, Sierra asked the court hearing the case to dismiss it. They argued that they never would have hired Salas if they had known that he was an illegal alien and that he was not entitled to recover any lost wages. The trial agreed.

Salas appealed that decision. But the appellate court also agreed with Sierra Chemical that Salas was not entitled to compensation.

Salas appealed again; this time to the California Supreme Court. And five of the seven justices on that court voted to overturn the two lower court decisions. Their decision defies logic.

The court determined that Salas was entitled to back wages, but only for the period of time that his employer was unaware that Salas was using false identification papers. Once the company became aware of the fact that Salas was duping them, no further payment was due. Put another way, the court held that it is ok to commit identity theft just as long as nobody else finds out about it.

In order to reach their finding, the justices also had to conclude that FEHA was not preempted by federal law which specifically bars the states from allowing illegal aliens to obtain employment by using false documentation papers.

No determination has been made by Sierra Chemical about an appeal of the verdict. If the company does appeal, it will be directly to the US Supreme Court.
byJim Malmberg
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