

MAN ALLEGES UPS DID NOT HIRE HIM BECAUSE HE HAD BEEN BORN A FEMALE



A man who was born a female claimed that UPS didn't hire him as a part-time package handler because the company had discriminated against him based on his gender, sexual orientation and disability. He filed a lawsuit and argued his case in court. The man first applied to UPS in 2006, presenting himself as a female and submitting an application under his birth name. He was offered a job but turned it down for a position with another employer. In 2008, a UPS recruiter contacted the man about open positions, which is typically done for previous applicants. The man, who at the time was presenting himself as male, applied under his female birth name, but was wearing a "binder" – an apparatus for binding the breasts – and taking male hormones. He was also receiving social security benefits for a psychological disorder that prevented him for working full time. He took a tour of a UPS facility in Minneapolis, but was twice turned down for an interview because he hadn't yet completed an online application – he claimed he was having trouble with the online submission. He was eventually granted an interview, which concluded with the interviewer informing him that UPS was not hiring at the time. He contacted UPS later, was set up for another tour, but was not signed up for an interview because he'd already been interviewed. The man then sued UPS, alleging discrimination in violation of the Minnesota Human Rights Act, the Civil Rights Act and the ADA (Americans with Disabilities Act). The district court granted summary judgment favoring UPS, as judges did not believe the plaintiff had successfully argued a case that could move to trial. On appeal, the man asserted that he had been discriminated against because he had not conformed to gender stereotypes or had been perceived as transgendered. But he couldn't offer any evidence proving that the interviewer knew he was transgendered. When interviewed, the man had not undergone any surgery for gender reassignment, had no facial hair and was wearing his hair cut short. There was likewise no mention of gender during the interview. Considering the female name on the application, the interviewer might have perceived him as a female. Even if the interviewer was aware that the man was transgendered, the plaintiff couldn't show pretext for UPS not hiring him. The interviewer's statement that the company wasn't hiring, according to testimony from UPS, wasn't true. But it doesn't prove discrimination, as internal documents specified legitimate reasons for not hiring. The plaintiff further argued that the "uneven application" of job criteria among other applicants showed that UPS had discriminated against him. He wasn't hired for poor job history and previously working at FedEx, in a similar position, for less than a year. Another applicant was hired despite quitting a similar job, but he was interviewed by another person and had indicated why he quit the job. Other applicants were hired regardless of having no job history, but appellate judges saw a distinction between a poor job history and having no prior employment. In the end, the man was unable to disprove the company's proffered reasons for not hiring him. Consequently, the district court's dismissal of his case was affirmed.