

EMPLOYMENT LAW UPDATE

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California Law

Mackey v. Department of Corrections (2003) 105 Cal.App.4th 945

The California Supreme Court will decide whether a supervisor who promotes his lover instead of other workers may be held liable for sex discrimination.

By Jason A. Geller

This case involves claims by former female state prison employees who sued the warden at the Valley State Prison for Women on the basis that he was having affairs with female employees whom he was favoring over other employees. The female plaintiffs alleged that they were harassed and excluded when they complained about his favoritism.

The trial judge of the Sacramento Superior Court dismissed the lawsuits and the dismissal was upheld on appeal. The California Court of Appeal held that just because an employee is treated less favorably than a supervisor's lover is not a distinction based on sex because both men and women who are not lovers are treated in the same manner. However, the California Supreme Court has agreed to review this decision to determine whether there is a basis for sex discrimination.