

Fifth Circuit Strikes Down OSHA's Mental Illness Reporting Rule

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A federal court ruling has created a clear legal divide between physical and mental health. Today, this ruling has led to even farther distance between dispute-heavy burden of compliance for companies and the modern medical understanding of mental illnesses.

In a July 21 ruling, the *Fifth Circuit Court of Appeals* said that the Occupational Safety and Health Administration (**OSHA**), doesn't have the statutory authority to require employers to record employees' work-related mental illnesses. What's noteworthy is that it threw out the citation and penalty issued against Exxon Mobil, as well as the rule itself.

In simple terms, the federal appeals court has overturned a rule that requires employers to keep track of work-related mental illnesses.

A little history on OSHA's record-keeping requirements

The case concerns a regulation that goes back to the *Occupational Safety and Health Act of 1970*, which includes a section mandating that employers record injuries or illnesses occurring on the job.

Since 2001, employers have been required to **record work-related mental illnesses** under the 1970 ruling, provided an employee voluntarily notifies them of their condition through an opinion from a physician or other licensed professional.



The Exxon Mobil case concerned a process technician who responded to a large explosion and fire that occurred at one of the company's petroleum refineries in 2021. The employee

was diagnosed with PTSD by a licensed clinical social worker who saw him during the months after the explosion. The social worker shared this diagnosis with Exxon, according to the details from the Fifth Circuit's opinion.

Surprisingly, Exxon *rejected* opinions from three different health care providers who evaluated this employee and determined that he had PTSD resulting from the fire. After the company consulted its own provider, they determined that the employee “*did not have a recordable work-related mental illness.*” The employee's union reported this violation to OSHA, which in turn issued a citation against the company.

What does the ExxonMobil OSHA ruling mean for employers?

The Fifth Circuit sided with Exxon Mobil on OSHA rule for mental illnesses, however, **the decision only applies to employers residing in select states, namely Louisiana, Mississippi, and Texas.**

“Employers with operations in those states should carefully evaluate the impact of the decision on their OSHA recordkeeping practices and any ongoing or future OSHA investigations involving employee mental health conditions,” attorneys with law firm Littler wrote in a blog post.

Let's not overlook the implications of this particular ruling that could one day extend beyond the three states. This case goes to show how the Supreme Court's 2024 decision to overturn the Chevron doctrine is impacting today's case law, as a few courts are now even less inclined to defer to federal agencies on statutory matters.