

# Drug test inconclusive? Offer a second chance

If a prehire drug test is inconclusive, you may want to offer the applicant a second chance to take the test.

**Recent case:** Vikki, who is black, applied for a job as a corrections officer and agreed to take a drug test.

The technician concluded the test was inconclusive and asked a supervisor what to do. A hiring manager pulled Vikki aside and explained the results. Later, Vikki would claim that he shouted racial slurs at her and told her she was a “crackhead.” Vikki left.

Later, the employer invited her back to take a new test and complete the application process. She sued instead.

The court tossed out her case, reasoning that Vikki had never been turned down for the job. She had merely been asked to complete the hiring process. (*May v. Mississippi Department of Corrections*, No. 12-60868, 5th Cir., 2013)