

CASE BRIEF 20.2

Ricci v. DeStefano
557 U.S. 557 (2009)

FACTS: The city of New Haven, Connecticut, used objective examinations to identify those firefighters best qualified for promotion to fill vacant lieutenant and captain positions. On the basis of the examinations' results, no black candidates were eligible for immediate promotion. There was a rancorous public debate when the issue became public. The city threw out the results based on the statistical racial disparity to avoid potential liability in a lawsuit based on *disparate impact* against the black candidates. White and Hispanic firefighters who passed the exams, but were denied a chance for promotion by the city's refusal to certify the test results, sued the city, alleging *disparate treatment* – that is, that discarding the test results discriminated against them based on their race in violation of Title VII.

DECISION BELOW: The federal district court found that there was discrimination against the white and Hispanic firefighters, and the City appealed. The appellate court reversed the district court's decision.

ISSUE ON APPEAL: Can an employer toss the results of an exam when the results of the exam produce a disparate impact and there is a threat of litigation?

DECISION: No. Exam results can be tossed only if there is evidence that the exam had a disparate impact. The evidence to toss an exam cannot consist of the threat of litigation. There must be some basis in evidence for not using the exam results such as the test is not a valid one.

Questions:

1. Explain what happened on the exam and why the city decided to toss the exam results
2. What does the court establish as the law applicable to "tossing" exam results?
3. What is the court trying to balance in interpreting the law?