

# How to Think Like a Lawyer

Analyze cases like a pro

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Presented by: **Patrick Bolling | Dean Buckius | Mike Gardner**

HR Virginia Annual Conference

April 22, 2024

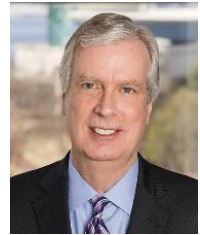
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# Agenda

1. The “IRAC” System: Think Like a Lawyer
2. Duvall v. Novant Health, Inc., No. 22-2142 (4th Cir. 2024):  
A Deep Dive



Patrick Bolling

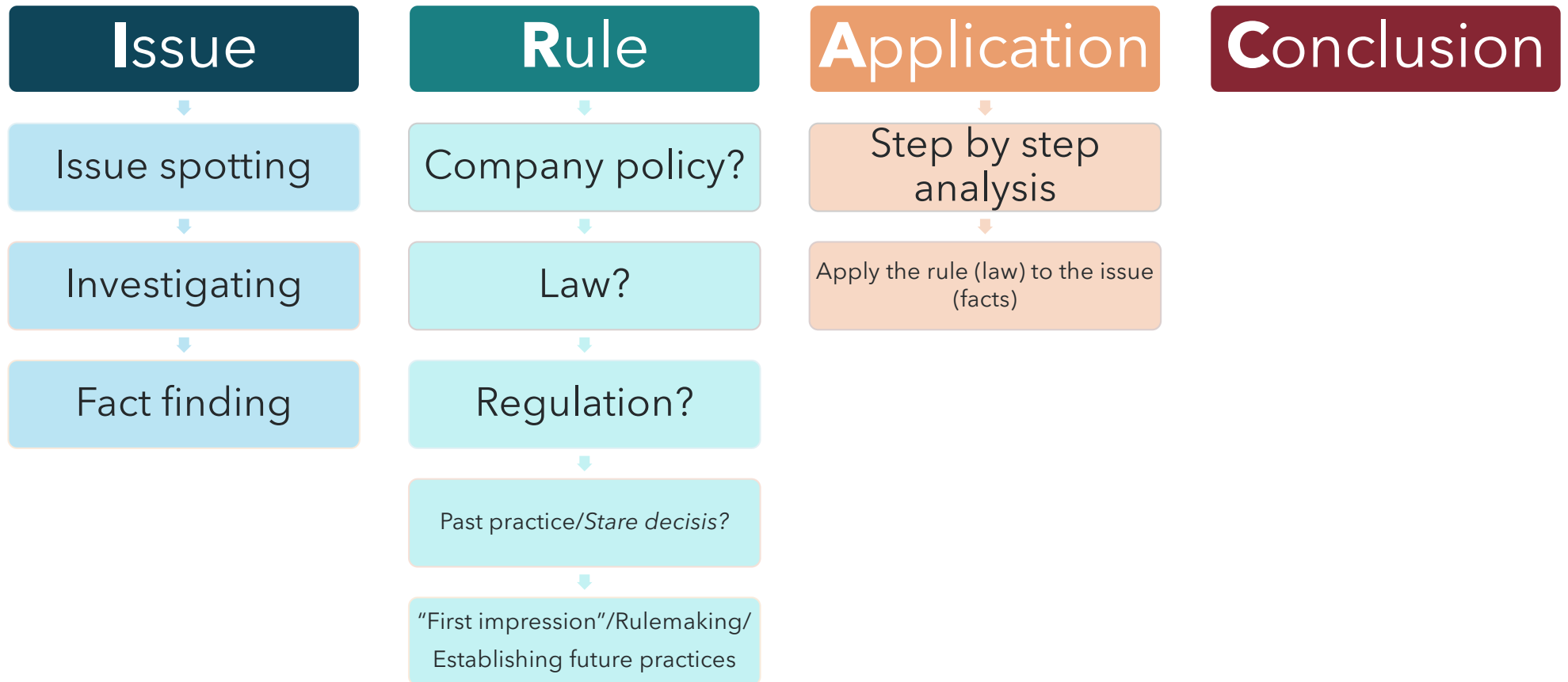


Dean Buckius



Mike Gardner

# The "IRAC" System



# Duvall v. Novant Health



v.



# IRAC: "I"ssue spotting the facts



- **Duvall education**
- Hired in 2013 by Novant's Jesse Cureton
- Novant Health Comms. SVP

# IRAC: "I"ssue spotting the facts



Duvall

- **Duvall education**
- '87-'05
  - ✓ BA, Business Admin
  - ✓ BA, Mkting. & Ops. Mgmt.
  - ✓ MPH, Health Policy
  - ✓ MBA (Kellogg)

# IRAC: "I"ssue spotting the facts



- **Duvall experience**

- ✓ Early '90s: Project Manager
- ✓ Late '90s: Division Pres./GM
- ✓ Early '00s: EVP
- ✓ '02-'13: Private consultant, founder
- ✓ '13-'18: Comms. SVP, Novant Health



# IRAC: "I"ssue spotting the facts



## ■ Duvall performance

- ✓ No negative documentation
- ✓ Work praised by Novant CEO Amato/COO
- ✓ Strong performance reviews
- ✓ Direct reports love him
- ✓ National speaking circuit
- ✓ Industry awards



# IRAC: "I"ssue spotting the facts



- 2015: NC's Novant Health CEO Carl Amato appoints Tanya Blackmon SVP
- Tasks her with developing a strategic D&I plan

# IRAC: "I"ssue spotting the facts



- Demographic data ('15-'17)
  - Female leaders trending down
  - Proportionally high rate of white male leaders compared to workforce
  - The more senior the role, the more likely to be a white male, less likely to be Black

# IRAC: "I"ssue spotting the facts



## Blackmon's D&I Strategic Plan

### Phase 1 - 2017

#### "Learn and Engage"

- Assess D&I culture
- Benchmark D&I levels
- Adopt metrics/timeline
- Obtain buy-in from leadership and Board to use D&I in employment decision-making

# IRAC: "I"ssue spotting the facts



## Blackmon's D&I Strategic Plan

### Phase 2 - 2018

#### "Develop and Influence"

- Add "dimensions" of diversity to executive/senior leadership teams
- Systemwide decision-making process that includes a D&I lens

# IRAC: "I"ssue spotting the facts



## Blackmon's D&I Strategic Plan

### Phase 3 - 2019

#### "Leverage"

- Evaluate progress towards embedding D&I
- Implement strategies and tactics to "close identified gaps."
- "Fully embed" D&I

# IRAC: "I"ssue spotting the facts



## Blackmon's D&I Strategic Plan

- Approved by the Board, November 2016



# IRAC: "I"ssue spotting the facts



- **2018** | Phase 2 (adding "dimensions" of leadership diversity / adopting systemwide D&I lens)
- **July 30, 2018**, Novant EVP Jesse Cureton on to Duvall: "You're fired. We're going in a different direction."



# IRAC: "I"ssue spotting the facts



- **Temporary replacements**
  - Duvall deputies Tammi Jones and Kati Everett split his role
  - Jones had worse reviews than Duvall

# IRAC: "I"ssue spotting the facts



- Duvall job hunt
- July 2018-April 2019



# IRAC: "I"ssue spotting the facts



- **Duvall job hunt**
- **December 2018**
- Cureton to headhunter
- Headhunter's notes:
- "Duvall didn't do a poor job"
- "Would hire again"
- "Desire to bring in new leaders"
- "Desire for different point of view"
- "Desire for different flair"

# IRAC: "I"ssue spotting the facts



- **Duvall job hunt**
- **April 2019**
- Henry Ford Health hires Duvall

# IRAC: "I"ssue spotting the facts



**NOVANT**  
HEALTH

- **Novant Health search**
- **May 2019**
  - National search
  - Three finalists, all Black women
  - Vicky Free hired

# IRAC: "I"ssue spotting the facts



- **Evidence at trial**
  - 2018: 7 white male direct reports
  - 2019: 2
  - 2020: 1
  - 2021: 0



# IRAC: "I"ssue spotting the facts



- **Evidence at trial**
- YOY '18 to '19
  - Female leaders ↑
  - Black workers/leaders ↑
  - White workers/leaders ↓



# IRAC: "I"ssue spotting the facts



- **Evidence at trial**
- 2019
  - Hispanic/Asian gaps identified
  - Long-term financial incentive plan adopted
  - Executive bonuses tied to closing gaps

# IRAC: "I"ssue spotting the facts



- **Cureton trial testimony**
  - Duvall lacked "engagement"
  - Lacked support from exec. team
  - Froze and walked off stage during 2016 presentation
  - Declined opps. To speak before Board, delegated
  - Missed two impt. meetings in 2018

# IRAC: "I"ssue spotting the facts



- **Duvall trial testimony**
  - None of Cureton's reasons were documented contemporaneously
  - Left stage because dizzy, was examined by doctors (Cureton texted him "did great")
  - No further discussion of incident, no reprimand
  - No one told him he had "lost confidence" of exec. team

# IRAC: "I"ssue spotting the facts



- **Duvall trial testimony**
  - Missed one meeting because presenting on Novant's marketing program at national conference
  - Missed another because pre-scheduled family reunion
  - Arranged for others to present for him
  - No reprimands, no talks

# Issue Spotting

What do you see?

What do lawyers see?





The background of the slide features several stacks of papers and documents, rendered in a monochromatic teal color. The stacks are of varying heights and are arranged in a way that suggests a large volume of paperwork. The lighting is soft, creating subtle shadows and highlights on the edges of the pages.

# Rules

Company Policies

Laws

Regulations



# Application

How would you apply the rules?

What would you do differently?

What would you do the same?



The background of the slide is a dark teal color with a repeating pattern of light teal speech bubbles. Each speech bubble contains a black question mark. The bubbles are scattered across the entire area, creating a textured, question-filled background.

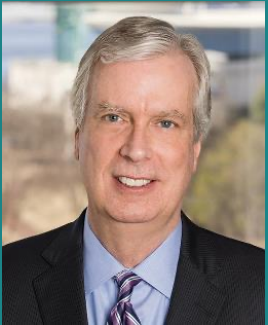
# Conclusion





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