

New Jersey Law Journal

VOL. CLXX – NO. 5 – INDEX 369

NOVEMBER 4, 2002

ESTABLISHED 1878

Workplace Injuries

When Work-Related Injuries Give Rise to ADA Claims

By William F. Maderer

During the past term, the U.S. Supreme Court decided three Americans with Disabilities Act cases that involved a work-related injury and, in each case, sided with the employer. These decisions reflect the underlying theme of limiting the scope of the ADA and the burden on the courts and businesses in ADA-driven disputes.

Applicable to public and private employers, the Americans with Disabilities Act, 42 U.S.C. 12101, bars discrimination in all employment practices, ranging from applications for employment to termination procedures.

The ADA seeks to protect a class characterized as “qualified individuals with disabilities.” This class includes all individuals who meet the requirements and can perform the essential functions of the position, but have an impairment that “substantially limits a major life activity.” If an individual falls into this class, the employer must determine if the individual could properly perform the essential functions with reasonable accommodations.

In the first of the three cases, *Toyota Motor Mfg. v. Williams*, 534 U.S. 184 (2001), the Court examined the definition of disability in the ADA

The author, a partner at Saiber Schlesinger Satz & Goldstein of Newark, acknowledges the significant assistance of Monica D. Kraft, a 2002 summer intern at the firm who is attending Seton Hall Law School.

and discussed whether the plaintiff’s condition satisfied the disability standard so as to deem her as falling within the class protected under the ADA.

Williams began working for Toyota Manufacturing in 1990, where she was placed on the engine fabrication assembly line. Those tasks caused Williams significant pain in her hands, wrists and arms, which resulted in a diagnosis of bilateral carpal tunnel syndrome and bilateral tendinitis.

Toyota put Williams on permanent work restrictions, which included lifting a maximum of 20 pounds and no continuous movement of her wrists or elbows. Although Toyota assigned her to various duties, Williams was dissatisfied with efforts to accommodate her disability and she brought an action alleging violation of the ADA, which resulted in a settlement.

Williams returned to work in 1993 and was placed on Quality Control Inspection Operations. Initially, she performed the duties of “assembly paint” and “paint second inspection,” which included such tasks as visual inspection of painted cars and the wiping of painted cars with a glove.

In the fall of 1996, Williams was required to take on additional tasks, which included the “shell body audit,” requiring her to apply oil to the car and then inspect it for flaws. Soon thereafter, Williams began to experience pain in her neck and shoulders. She was diagnosed by the in-house doctor with myotendinitis bilateral periscapular, which is inflammation of the muscles and ten-

dons.

Williams requested that Toyota return her to her original duties in the Quality Control Inspection Operations, and when Toyota refused, she began to miss work. On her last day at work, Williams was put on a no-work-of-any-kind restriction. She was then terminated for poor attendance.

Williams alleged that Toyota violated the ADA for failing to reasonably accommodate her and for termination of employment. The district court determined that Williams had not been disabled as defined by the ADA at the time her employer refused to provide her with an accommodation and, therefore, she did not fall within the protected class under the act.

The Sixth U.S. Circuit Court of Appeals reversed the district court’s decision, holding that for Williams to prove she was disabled, she had to show that her disability involved manual tasks that affected her ability to perform her job. The court determined that she satisfied this test because her disability prevented her from performing some assembly line jobs.

The Supreme Court reversed the Sixth Circuit decision, finding that it applied the wrong standard in determining whether Williams fell within the scope of the act. The Court held that the appropriate standard is a “substantial limitation on major life activities.” The Court defined “substantially limits” as “considerable” or “to a large degree,” and “major life activities” as those that are of central importance to daily life.

The Court held, therefore, that in order to be protected by the ADA, an individual must have an impairment that severely restricts activities of daily life.

The Court determined the focus of the analysis should have been on the manual tasks related to everyday life as opposed to occupational tasks because these are not important to most people's lives. Because Williams was able to tend to her personal hygiene, her house and her garden, she did not have restrictions on centrally important activities of daily life. Therefore, the Court determined Williams was not disabled as defined by the ADA.

The second case, *U.S. Airways, Inc. v. Barnett*, 122 U.S. 1516 (2002), involved the interpretation of reasonable accommodations as required by the ADA. The plaintiff, Barnett, injured his back while working in a cargo-handling position at U.S. Airways. After transferring to a less physical position in the mailroom, his position became open for bidding and two individuals with seniority intended to bid for the position. Barnett asked U.S. Airways to make an exception and accommodate his disability by allowing him to remain in the mailroom. U.S. Airways did not grant the exception and he eventually lost his job.

Barnett filed a complaint claiming a violation of the ADA for failing to provide reasonable accommodations. The district court held that U.S. Airways did not discriminate under the ADA because an exception to their seniority system, which had been in place for decades and governed over 14,000 employees, would be an undue hardship on the operation of the business.

In reversing the district court, the Ninth Circuit found the seniority system was just one factor in the undue hardship analysis and that undue hardship must be determined on a case-by-case basis.

The Supreme Court reversed the Ninth Circuit finding that the ADA allows an exception to the reasonable accommodation requirement where the employer can demonstrate an undue hardship on the business. As long as the employer can provide proof that an assignment of an employee would vio-

late the rules of a seniority system, judgment should be rendered in favor of the employer unless the employee can present circumstances to show the assignment is reasonable.

The parties had opposite interpretations of the statutory language. U.S. Airways argued that the fact that the accommodation would violate seniority rules shows that the accommodation is not reasonable, while the plaintiff maintained that a violation of the seniority system never shows that the accommodation is unreasonable.

The Court disagreed with both views and determined that ordinarily, the seniority system will prevail and the accommodation will be unreasonable. However, the ADA requires preferential treatment of disabled workers in cases where it is reasonable to do so.

The Court determined that in a majority of seniority system cases, proposed accommodations will be unreasonable because case law recognizes the importance of seniority to employee-management relations. The seniority system finds its importance in the concept that these systems provide employee benefits by developing fair and uniform treatment and encouraging employees to invest their time in the business. The Court held that to require the employer to demonstrate more than the seniority system to prove undue hardship would undermine the very virtues the seniority system provides.

However, the Court observed that a plaintiff is afforded the opportunity to demonstrate special circumstances that warrant a finding that the proposed accommodation is reasonable. For example, the plaintiff could show that the employer has the right to make changes in the seniority system or that the seniority system already contains exceptions, in which case an additional change would have no effect on the expectations of the employee. Therefore, the Court held that absent the plaintiff carrying his burden of proof, a violation of the seniority system is undue hardship unless there is something more.

Most recently, in *Chevron v. Echazabal*, 2002 U.S. LEXIS 4202 (2002), the Court decided that the Equal Employment Opportunity Commission

direct-threat defense is applicable to the ADA. In *Chevron*, the plaintiff worked for independent contractors at an oil refinery owned by Chevron and thereafter applied twice for a job directly with Chevron. The plaintiff was denied a position because his physical exam revealed liver damage caused by Hepatitis C, which could worsen by continued exposure to toxins.

On the initial application, Chevron declined to offer Echazabal a job. However, on the second one, Chevron asked the contractor to reassign him to limit his exposure to toxins. Echazabal filed an action claiming a violation of the ADA because of failure to hire him or to allow him to continue to work in the plant.

Chevron claimed the direct-threat defense — that the position would pose harm to the plaintiff. The Ninth Circuit held that the recognition of this defense exceeded the scope of statutory interpretation under the ADA. The court looked to the language of the statute and determined that there was an explicit statement barring employment if the employee is a danger to others. However, the text is without language concerning a danger to one's self. The court held that applying this defense would conflict with congressional policy against paternalism in the workplace.

The Supreme Court reviewed the case on the issue of whether the direct-threat defense, applied by the EEOC where the threat was to the worker himself, could be relied on by the defendant. The Court determined that the defense is reasonable and applicable.

First, Congress included harm to others as a valid reason for screening out employees by "qualification standards" that are "job-related and consistent with business necessity" as recognized by the ADA. The Court found that these categories give agencies a great deal of discretion in setting the limits of permissible standards.

Second, Echazabal failed to identify any other circumstance where Congress intentionally omitted a threat to self as a demonstration of its inapplicability. Third, there is no point at which the omission would stop having a negative impact on whose safety could be considered when reviewing the use

of this defense. For example, it would be possible that an employer could not defend a refusal of employment where the individual threatens others outside of the workplace.

The Court held that the defense is applicable as long as the employer can make a reasonable connection between the defense and the qualification stan-

dards. The direct-threat defense must be based on a reasonable medical judgment evaluating the individual's present ability or inability to perform the job. Here, Chevron provided such reasons as time lost to sickness, turnover from medical retirement and death, litigation under state tort law and the risk of violation of the Occupational Safety and

Health Act.

These concerns were based on the diagnosis of a medical doctor, which gave Chevron the ability to claim the defense. Therefore, the Court determined that the direct-threat defense is applicable to the health and safety of the worker, regardless of the omission of supporting language in the statute. ■