

Summary Judgment Review

Case Name: *Nicole Owens v. State of Georgia, Governor's Office of Student Achievement*

Nature of the Order: Magistrate Judge's Final Report & Recommendation

Magistrate Judge: Linda T. Walker

District Judge: Mark H. Cohen

Claims & Outcomes:

1. **Claim:** ADA – Retaliation
 - a. **Outcome:** Defendant's MSJ recommended
2. **Claim:** ADA – Discrimination
 - a. **Outcome:** Defendant's MSJ recommended
3. **Claim:** Title VII Discrimination – gender/pregnancy
 - a. **Outcome:** Defendant's MSJ recommended

Whether R&R Followed: N/A

For Race/Gender Discrimination Cases:

Race of Plaintiff: N/A

Gender of Plaintiff: N/A

Long Summary

Plaintiff worked for the Governor's Office of Student Achievement ("GOSA"). During the 1-85 fire, Plaintiff worked remotely. When she returned, she was allowed to continue teleworking one day a week. In early 2018, Plaintiff informed GOSA that she was pregnant, and a short time later, she submitted an FMLA request due to her pregnancy being high-risk. She was granted the time. However, after giving birth by cesarean section, she needed an accommodation to work remotely due to complications from her surgery. Her doctor's note did not provide a reason, and Dr. Good (Executive Director of GOSA) told her she needed to formally request an accommodation. Not long after she filled out the appropriate paperwork, she was told she needed to submit additional paperwork, which she needed to get from her doctor. She informed HR that her doctor was out of office until September 24, 2018. When she still hadn't turned in the required documents by September 28, 2018, she was told that she needed to have it in by October 11, 2018 or return to work. Plaintiff was unable to get the paperwork from her doctor by the deadline. Dr. Good terminated her.

Plaintiff brought three claims against GOSA. First, she argued that they discriminated and retaliated against her in violation of the Rehabilitation Act. The Court determined Plaintiff to be partially responsible for the breakdown in the "interactive process" because she didn't include a

more detailed doctor's note explaining her functional limitations. The Court found that Plaintiff's refusal to go to the doctor's office outside of her existing appointment schedule, and the fact that she only tried calling the nurse, which the Court said she knew would not work because (as she stated) she "could not expedite internal processes out of her control," meant that she was the one who caused the interactive process to breakdown. The Court also stated that "had Plaintiff requested an extension and Defendant had refused, the result in this case be [sic] different." She also failed to tell GOSA when they would be able to expect the documents.

In terms of her retaliation claim, GOSA only challenged one element of her prima facie case: whether she could show a causal link between the protected activity and the adverse action. GOSA argued, and the Court agreed, that any inference of a causal connection created by temporal proximity, was then severed by Plaintiff's intervening conduction, "namely her failure to provide any additional documentation to support her teleworking request." However, even if she had presented a prima facie case, the Court stated that GOSA had provided a legitimate, non-discriminatory reason for her termination: She failed to submit the additional documentation for weeks, and she refused to return to the office. And because GOSA gave her extra time to get the documents to them, they went above board to help her. Finally, Plaintiff's argument that GOSA's reason was pretextual (that the need for more evidence was unreasonable), did not sway the Court, who pointed out the vague statements included in the doctor's notes (Plaintiff had "delivered a baby by cesarean" but that she was "doing well") and that the doctor said that she "may" telework, rather than should telework, given her condition.

Then Plaintiff argued that she was discriminated against until Title VII for gender/pregnancy. However, the Court said that GOSA had accommodated Plaintiff's pregnancy and related complications for approximately 8 months and Plaintiff did not show evidence of pretext.