

Summary Judgment Review

Case Name: Hendricks v. Henry County, Georgia

Nature of the Order: Order Adopting the Magistrate's Report and Recommendation

Magistrate Judge: Russell G. Vineyard

District Judge: Timothy C. Batten, Sr.

Claims & Outcomes:

Claims: Discrimination under the ADA and Rehabilitation Act, Failure to Make a Reasonable Accommodation

- **Outcome:** Summary Judgment Granted

Whether R&R Followed: Yes.

For Race/Gender Discrimination Cases:

Race of Plaintiff: N/A

Gender of Plaintiff: N/A

Long Summary:

The Court adopted the Magistrate's Report & Recommendation, which is summarized below.

Plaintiff Herbert Hendricks ("Hendricks") was hired as Equipment Operator II for Henry County's Department of Transportation on August 27, 2018. The job description to which he had responded listed various types of equipment that the interested employee would be required to know how to operate. He had been interviewed by the Foreman in the DOT, Johnny Barkley ("Barkley"), who Hendricks alleged Barkley only mentioned that he would be operating a dump truck. Hendricks testified that during his employment, he was not asked to operate equipment with which he was unfamiliar.

On September 6, 2018, Hendricks informed his direct supervisor, Clifford Sims ("Sims"), that he suffered from vision problems, including glaucoma, which impaired his ability to operate a motor vehicle at night. He mentioned it because his shift was from 7am to 4pm, and the 7am hour could be dark depending on the season.

Hendricks testified that the following day he gave Sims paperwork proving his vision issues, which Sims then forwarded to Barkley. He was then called into a meeting with HR rep Harold Cooper ("Cooper"), Barkley, and several others. During the meeting, Hendricks was told that no light duty work was available and then Cooper terminated him. Cooper and Barkley testified that they terminated Hendricks because he couldn't perform the essential functions of the job regardless of his vision problems. Hendricks tried to explain that a small schedule change from 8am to 5pm

would solve the problem, but it felt to him that his termination had been pre-determined. Hendricks' termination was effective September 13, 2018 and the reason for his termination was "Failure to successfully complete probationary period."

Hendricks filed his complaint on December 23, 2019, alleging claims of disability discrimination in violation of the ADA and the Rehabilitation Act. Henry County moved for summary judgment, arguing that Hendricks could not establish a prima facie case of discrimination because he wasn't a qualified individual (one of the four elements of a prima facie case for discrimination) due to not being able to perform the essential functions of the Equipment Operator II position. Henry County also argued that Hendrix could not identify any accommodation that would help him to perform the essential functions of the job.

Hendricks argued that he was qualified for the job that he was hired for and that he presented evidence: that Henry County hired him knowing the scope of his abilities and experience, that he was never asked to use other equipment, that Henry County never stated any plans to train him to operate the machinery, and that the job description said he may need to use the other machinery, not that it was a required job skill and thus essential to the job. He also argued that Henry County did not have issue with him not using heavy until after he notified them of his vision issues, suggesting the heavy equipment use was just pretext.

A "qualified individual" is one "who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds. The Court makes this determination on a case-by-case basis. Relevant factors include: the employer's judgment as to which functions are essential, job descriptions prepared before applicants are interviewed, how much time, if any, is spent performing the function, the consequences of not requiring the employee to perform the function, collective bargaining agreements, the work experience of previous employees in that role, and the current work experience of previous employees in that role. The Court gives a lot of weight to the employer's judgment.

In the present case, the Court found that Hendricks was not a qualified individual because operating equipment identified in the job description was an essential function of the job. First, the job description had not changed since 2014, it included a list of "Essential Job Functions," and listed specific equipment that the employee would need to be able to operate. The same responsibilities were listed under headers like "Major Duties" and "Knowledge Required by the Position."

Second, if he did not have the knowledge or ability to perform those functions, DOT would not be able to complete essential projects for the County. The Court also noted that Hendricks had only worked for Henry County for two weeks, and so the argument that he had never been asked to use other machinery is not persuasive, because he had only worked on one project thus far.

Hendrick's main argument is that Henry County hired him knowing that he did not have experience using other machinery and equipment. However, the Court stated that it is equally plausible that Henry County hired him because they needed an employee for a specific project, and they believed Hendricks to be trainable. Regardless, without more evidence, the Court stated that either scenario is mere speculation and insufficient to establish a genuine dispute of material fact regarding the essential functions of the position.

The Court also addressed the fact that Hendricks had not identified an accommodation that would enable him to perform the essential functions of the job (meaning, the operation of heavy machinery and equipment). Therefore, Hendricks failed to meet his burden of identifying a reasonable accommodation.

The Magistrate Judge, therefore, recommended that Henry County's motion for summary judgment be granted.