

Summary Judgment Review

Case Name: *Sweeting v. Hill et al.*

Nature of the Order: Order Adopting the Report & Recommendation and Denying Summary Judgment

Magistrate Judge: Linda T. Walker

District Judge: J.P. Boulee

Claims & Outcomes:

1. **Claim:** Failure to Accommodate (ADA)
 - a. **Outcome:** Summary Judgment Denied
2. **Claim:** Failure to Accommodate (Rehabilitation Act)
 - a. **Outcome:** Summary Judgment Denied
3. **Claim:** Retaliation (ADA)
 - a. **Outcome:** Summary Judgment Denied
4. **Claim:** Retaliation (Rehabilitation Act)
 - a. **Outcome:** Summary Judgment Denied
5. **Claim:** FMLA Interference
 - a. **Outcome:** Summary Judgment Denied
6. **Claim:** FMLA Retaliation
 - a. **Outcome:** Summary Judgment Denied
7. **Claim:** Violation of the U.S. Constitution
 - a. **Outcome:** Summary Judgment Denied

Whether R&R Followed: Yes

For Race/Gender Discrimination Cases:

Race of Plaintiff: N/A

Gender of Plaintiff: N/A

Summary

Plaintiff Kyetha Sweeting (“Sweeting” or “Plaintiff”) worked as a Sheriff Correctional Officer (“SCO”) at the Clayton County Jail. Defendant was Sheriff Victor Hill, in his official capacity (that is, as a stand-in for the government agency, not in his personal capacity). After Sweeting was injured in a fight with an inmate in August 2017, she began suffering severe migraines. Through the remainder of 2017 and 2018, Sweeting either took intermittent FMLA leave or requested a series of accommodations for her migraines. Each of the accommodations was granted, including – at different times – light duty (security checkpoint), 2 days off per week

to deal with migraines, no overtime, and assignment in a “low-light, low-noise environment” (medical unit control tower).

However, Sweeting’s accommodation request on December 11, 2018 – Mon-Fri schedule & limited contact with inmates due to lightheadedness – was not immediately granted. Instead, Assistant Chief Southerland requested a fitness-for-duty certification from Sweeting’s medical providers. In response, Sweeting’s neurologist provided a note explaining the need for the above accommodation requests. In addition, Sweeting’s primary care physician provided a note that Sweeting’s condition would not pose a direct threat to the health or safety of herself or others, and – most importantly – that he expected her condition to markedly improve within one month so that she would be able to perform the essential functions of her job. On January 3, 2019, Sweeting notified Human Resources that she intended to take FMLA leave when she became eligible. Four days later, Assistant Chief Southerland terminated Sweeting’s employment on the grounds that she could not perform the essential functions of her job. After her termination, Sweeting was served with a “Criminal Trespass Warning” prohibiting her from going to the Clayton County Sheriff’s Office and the Clayton County Courthouse on threat of arrest and prosecution.

Sweeting filed suit in this case, alleging failure to accommodate and retaliation in violation of both the Americans with Disabilities Act (“ADA”) and the Rehabilitation Act, interference and retaliation in violation of the Family and Medical Leave Act (“FMLA”), and violation of her rights under the U.S. Constitution (regarding the exclusion from the Sheriff’s Office and Courthouse). Defendant moved for Summary Judgment on all claims. Magistrate Judge Linda T. Walker recommended denying Defendant’s summary judgment motion on all claims. Defendant then filed a series of objections to the recommendation.

Because Defendant did not object to the recommendation regarding the constitutional claim, District Judge J.P. Boulee denied summary judgment with respect to that claim.

As to the failure-to-accommodate claims, Defendant had argued that Sweeting was not entitled to an accommodation because she was not qualified – that is, she could not perform the essential functions of her job even with an accommodation. However, Magistrate Judge Walker found there was a genuine dispute as to Sweeting’s ability to perform her job because her primary care physician had written that she would be able to perform the essential functions of her job within one month. Defendant objected to that finding because Magistrate Judge Walker hadn’t made any findings regarding the essential functions of the job, including mandatory overtime and difficult physical & mental tasks. However, District Judge Boulee overruled the objection because, even if Defendant was right about the essential functions, Sweeting’s doctor’s note raised a genuine issue that she would be able to perform those functions within one month.

Defendant next argued that Magistrate Judge Walker erred in finding Sweeting’s request for leave was reasonable, because indefinite requests for leave do not constitute reasonable accommodation requests. The Court, Defendant argued, should have taken into account Sweeting’s lengthy history of leave requests and considered her latest request to “really” be a request for indefinite leave. However, District Judge Boulee noted that Sweeting’s doctor said she only needed one month, not indefinite leave. In addition, Defendant argued that it was not

reasonable to prevent Sweeting from having any contact with inmates at a jail. But Judge Boulee noted the request was only for “limited” contact with inmates, which had previously been accomplished via the assignment at a medical control tower.

Defendant next objected that Magistrate Judge Walker found Defendant regarded Sweeting as disabled based on mere conclusory assertions by Plaintiff. Judge Boulee agreed and sustained this objection, but found it was not enough to overturn the denial of summary judgment because of evidence that Plaintiff was actually disabled.

Defendant next objected to the Magistrate Judge’s rejection of its Direct Threat defense, arguing that Sweeting posed a direct threat to herself and others because she could have no contact with inmates. But Judge Boulee repeated that the evidence wasn’t that she could have “no” contact with inmates, just limited contact. Judge Boulee also noted the doctor’s note that, after a month of leave, Sweeting would be able to perform her job. And she posed no threat during a leave of absence.

Regarding the retaliation claims, Defendant objected that Sweeting did not engage in protected activity (requesting a reasonable accommodation) because she had requested indefinite leave, which – under the law – is not a reasonable accommodation. Again, Judge Boulee noted the evidence that Plaintiff actually only requested one month of leave, and there was a genuine issue that this was a reasonable request.

Finally, regarding the FMLA interference claim, Judge Boulee found there was a jury issue because Defendant knew Sweeting would be eligible for FMLA leave on January 23, 2019 and terminated her only days after she requested such leave. This also raised a genuine issue of FMLA retaliation, especially when combined with testimony by one of Defendant’s witnesses that Plaintiff’s decision to take leave was a contributing factor in her termination. Judge Boulee held that Defendant’s objections regarding the FMLA claim failed because they did not address these crucial issues.

For the above reasons, District Judge Boulee overruled Defendant’s objections, adopted the recommendation of Magistrate Judge Walker, and DENIED summary judgment on all of Plaintiff’s claims.