

OHIO COURT OF APPEALS, TENTH APPELLATE DISTRICT

Anderson v. Bright Horizons Children's Ctrs., L.L.C.

2022-Ohio-1031 (Ohio Ct. App. 2022) · No. 20AP-291 · Decided March 29, 2022

SUMMARY

The Ohio Tenth District Court of Appeals reviewed summary judgment in a disability-discrimination action brought by Haley Anderson against Bright Horizons Children's Centers, LLC and Carrie Delaney. The court held that Anderson had not shown an actual disability under Ohio's statutory definition because her congenital heart defect was not shown to substantially limit a listed major life activity, but found factual disputes regarding whether the defendants regarded her as impaired and whether she voluntarily resigned or was terminated. The court affirmed in part, reversed in part, and remanded the case.

CASE DETAILS

COURT	Ohio Court of Appeals, Tenth Appellate District
WRITING FOR THE COURT	Klatt, J.; Luper Schuster, P.J.; Nelson, J.
JURISDICTION	Ohio
DECIDED	March 29, 2022
DOCKET	20AP-291
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed the Franklin County Court of Common Pleas' grant of summary judgment to defendants on Ohio disability-discrimination, failure-to-accommodate, interactive-process, aiding-and-abetting, and discovery-related claims.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Discovery sanctions, discovery rulings, and rulings on Civ.R. 56(F) requests are reviewed for abuse of discretion. Interpretation of the Ohio Civil Rules is reviewed de novo.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals decision; precedential within the applicable Ohio appellate framework.
PARTIES	Haley Anderson v. Bright Horizons Children's Centers, LLC, Carrie Delaney

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statutory interpretation

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QUESTIONS PRESENTED

1. Whether genuine issues of material fact precluded summary judgment on Anderson's actual-disability and regarded-as-disability discrimination claims under R.C. 4112.02(A).
2. Whether Anderson's congenital heart defect substantially limited a major life activity under Ohio's statutory definition of disability.
3. Whether the evidence created a factual dispute regarding whether defendants regarded Anderson as having a physical impairment and took an adverse employment action because of that perceived impairment.
4. Whether Anderson established a failure-to-accommodate claim by requesting that defendants not hold her heart defect against her.
5. Whether Ohio law recognizes an independent claim for failure to engage in the interactive process.
6. Whether Delaney's aiding-and-abetting claim under R.C. 4112.02(J) survived because the underlying regarded-as discrimination claim survived.
7. Whether the trial court abused its discretion by sanctioning Anderson for failing to properly respond to a discovery request for an audio recording.
8. Whether the trial court abused its discretion in limiting electronic discovery and denying a requested forensic inspection of defendants' computers.

HOLDINGS

1. Anderson did not establish that her congenital heart defect substantially limited a major life activity under Ohio's statutory definition of disability because R.C. 4112.01(A)(13) does not include the operation of major bodily functions as a separate category of major life activities. Summary judgment was therefore proper on the actual-disability claim.
2. Summary judgment was improper on Anderson's regarded-as disability-discrimination claim because evidence created genuine issues of material fact regarding whether defendants perceived her as having a physical impairment, whether Bright Horizons terminated her rather than accepting a voluntary resignation, and whether the perceived impairment contributed to the employment action.
3. Summary judgment was proper on Anderson's failure-to-accommodate claim because neither Anderson nor her mother made a sufficiently direct and specific request for a reasonable accommodation.
4. The trial court properly granted summary judgment on Anderson's claim for failure to engage in the interactive process because the Tenth District does not recognize a separate claim under R.C. 4112.02 for failure to engage in that process, and in any event no duty arose because Anderson did not request a reasonable accommodation.

5. Because Anderson's regarded-as disability-discrimination claim survived summary judgment, her derivative claim that Delaney aided and abetted discrimination under R.C. 4112.02(J) also survived summary judgment.
6. The trial court did not abuse its discretion by sanctioning Anderson for failing to properly respond to the request for production of an audio recording and by excluding the disputed deposition testimony.
7. The trial court did not abuse its discretion by limiting the requested electronic-discovery search or denying a forensic inspection of defendants' computers.

KEY QUOTATIONS

"In interpreting statutes, courts cannot extend a statute beyond what is written because it is the duty of the court to give effect to the words used in the statute, not to delete words used or insert words not used." (§ 27)

"A request for accommodation must be 'sufficiently direct and specific' to give notice to the employer of the need for an accommodation and the potential reasonable accommodations that would overcome the employee's limitations." (§ 67)

"Judgment affirmed in part and reversed in part; cause remanded." (§ 104)

FACTUAL BACKGROUND

Anderson has a congenital heart defect involving a coarctation of the aorta and a bicuspid aortic valve, which caused high blood pressure and increased susceptibility to infection. Bright Horizons employed her as an infant-room teacher, and she incurred multiple medically excused absences. In July 2017, Anderson disclosed her heart defect to her supervisor and, shortly thereafter, Bright Horizons removed her from the schedule and treated her failure to report for work on July 17 and 18 as a voluntary resignation. Anderson maintained that the separation was disability discrimination and that defendants mishandled discovery concerning an audio recording and electronically stored information.

PROCEDURAL HISTORY

Anderson sued Bright Horizons and Delaney under R.C. 4112.02, alleging disability discrimination, failure to accommodate, failure to engage in the interactive process, and aiding and abetting discrimination. After discovery, the trial court granted defendants summary judgment on all claims and ruled against Anderson on discovery-related motions and sanctions. The Tenth District affirmed in part, reversed the summary judgment on the regarded-as disability-discrimination and aiding-and-abetting claims, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Franklin County Court of Common Pleas for further proceedings consistent with the opinion on the regarded-as disability-discrimination and aiding-and-abetting claims.

CASES CITED

- Hudson v. Petrosurance, Inc., 127 Ohio St.3d 54, 2010-Ohio-4505, ¶ 29
- Sinnott v. Aqua-Chem, Inc., 116 Ohio St.3d 158, 2007-Ohio-5584, ¶ 29
- Zurz v. 770 W. Broad AGA, LLC, 192 Ohio App.3d 521, 2011-Ohio-832, ¶ 5 (10th Dist.)
- White v. Westfall, 183 Ohio App.3d 807, 2009-Ohio-4490, ¶ 6 (10th Dist.)
- Dresher v. Burt, 75 Ohio St.3d 280, 293 (1996)
- Columbus Civ. Serv. Comm. v. McGlone, 82 Ohio St.3d 569, 571 (1998)
- Hazlett v. Martin Chevrolet, Inc., 25 Ohio St.3d 279, 281 (1986)
- Dalton v. Ohio Dept. of Rehab. & Corr., 10th Dist. No. 13AP-827, 2014-Ohio-2658, ¶¶ 24, 26, 28, 30
- Hauser v. Dayton Police Dept., 140 Ohio St.3d 268, 2014-Ohio-3636, ¶ 14
- Hall v. Banc One Mgt. Corp., 114 Ohio St.3d 484, 2007-Ohio-4640, ¶ 24
- Sarmiento v. Grange Mut. Cas. Co., 106 Ohio St.3d 403, 2005-Ohio-5410, ¶ 29
- Ames v. Ohio Dept. of Rehab. & Corr., 10th Dist. No. 14AP-119, 2014-Ohio-4774, ¶ 24
- Babb v. Maryville Anesthesiologists P.C., 942 F.3d 308, 319 (6th Cir. 2019)
- Mancini v. Providence, 909 F.3d 32, 46 (1st Cir. 2018)
- Adair v. Muskogee, 823 F.3d 1297, 1306 (10th Cir. 2016)
- Jakomas v. Pittsburgh, 342 F. Supp. 3d 632, 650 (W.D. Pa. 2018)
- Nichols v. OhioHealth Corp., S.D. Ohio No. 2:14-cv-2796 (Aug. 17, 2017)
- Gleason v. Food City 654, E.D. Tenn. No. 3:13-CV-712-PLR-HBG (Apr. 22, 2015)
- Paranthaman v. State Auto Property & Cas. Ins. Co., 10th Dist. No. 14AP-221, 2014-Ohio-4948, ¶¶ 34, 43
- Nance v. Goodyear Tire & Rubber Co., 527 F.3d 539, 554-55 (6th Cir. 2008)
- Hammon v. DHL Airways, Inc., 165 F.3d 441, 448 (6th Cir. 1999)
- State ex rel. Waldman v. Burke, 152 Ohio St. 213, 215-16 (1949)
- Gohl v. Livonia Pub. Schools School Dist., 836 F.3d 672, 683 (6th Cir. 2016)
- Ray v. Ohio Dept. of Health, 10th Dist. No. 17AP-526, 2018-Ohio-2163, ¶¶ 24, 27
- Johnson v. Kroger Co., 319 F.3d 858, 865 (6th Cir. 2003)
- Merrill v. E. Porter Mach. Co., 159 F. App'x 676, 679 (6th Cir. 2005)
- Rowan v. Lockheed Martin Energy Sys., Inc., 360 F.3d 544, 548 (6th Cir. 2004)
- McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)
- Hood v. Diamond Prods., Inc., 74 Ohio St.3d 298, 302 (1996)
- Whitfield v. Tennessee, 639 F.3d 253, 259 (6th Cir. 2011)
- Ferrari v. Ford Motor Co., 826 F.3d 885, 894 n.4 (6th Cir. 2016)
- St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 506-07, 515 (1993)
- Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 254 (1981)
- Furnco Constr. Corp. v. Waters, 438 U.S. 567, 577 (1978)
- Coomer v. Opportunities for Ohioans with Disabilities, 10th Dist. No. 21AP-158, 2022-Ohio-387, ¶ 17
- Shaver v. Wolske & Blue, 138 Ohio App.3d 653, 663-69 (10th Dist. 2000)

- DeBolt v. Eastman Kodak Co., 146 Ohio App.3d 474, 2001-Ohio-3996, ¶¶ 78-79 (10th Dist.)
- O'Donnell v. Univ. Hosps. Cleveland Med. Ctr., 833 F. App'x 605, 617 (6th Cir. 2020)
- Fisher v. Nissan N. Am., Inc., 951 F.3d 409, 421 (6th Cir. 2020)
- Hostettler v. College of Wooster, 895 F.3d 844, 857 (6th Cir. 2018)
- Aldini v. Kroger Co., 628 F. App'x 347, 351 (6th Cir. 2015)
- Melange v. Center Line, 482 F. App'x 81, 84 (6th Cir. 2012)
- Dunn v. GOJO Industries, 9th Dist. No. 28392, 2017-Ohio-7230, ¶ 27
- Nakoff v. Fairview Gen. Hosp., 75 Ohio St.3d 254 (1996)
- Home Sav. & Loans Co. v. Eichenberger, 10th Dist. No. 12AP-1, 2012-Ohio-5662, ¶ 29
- In re Sulfuric Acid Antitrust Litigation, 231 F.R.D. 331, 337 (N.D. Ill. 2005)
- 8A Wright & Miller, Federal Practice and Procedure § 2035 (3d ed. 2021)
- Gugins v. Ohio Dept. of Rehab. & Corr., 10th Dist. No. 10AP-941, 2011-Ohio-3314, ¶ 11
- Ettayem v. Land of Ararat Invest. Group, Inc., 10th Dist. No. 19AP-427, 2020-Ohio-3006, ¶ 20
- Simek v. Orthopedic & Neurological Consultants, Inc., 10th Dist. No. 17AP-671, 2019-Ohio-3901, ¶ 117
- Bennett v. Martin, 186 Ohio App.3d 412, 2009-Ohio-6195, ¶ 42 (10th Dist.)
- Libertarian Party of Ohio v. Husted, 10th Dist. No. 16AP-496, 2017-Ohio-7737, ¶ 76
- Riverside v. State, 190 Ohio App.3d 765, 2010-Ohio-5868, ¶ 58 (10th Dist.)
- Young v. Univ. of Akron, 10th Dist. No. 06AP-1022, 2007-Ohio-4663, ¶ 22
- Lehmier v. W. Reserve Chem. Corp., 9th Dist. No. 28776, 2018-Ohio-3351, ¶ 49
- Guappone v. Enviro-Cote, Inc., 9th Dist. No. 24718, 2009-Ohio-5540, ¶ 13

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