

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

David Ruiz v. Frank Kendall

No. CV-23-00549-TUC-AMM (D. Ariz. Mar. 31, 2026) · No. No. CV-23-00549-TUC-AMM · Decided March 31, 2026

SUMMARY

The order addresses cross-motions for summary judgment in David Ruiz’s Rehabilitation Act action against the United States Department of the Air Force. Ruiz, a civilian non-appropriated-fund employee with ulcerative colitis, alleged disability discrimination and failure to accommodate based largely on the denial of his request to convert annual and sick leave used during the COVID-19 pandemic to Weather and Safety Leave. The court granted the defendant’s motion for summary judgment and denied Ruiz’s motion for partial summary judgment.

CASE DETAILS

COURT	United States District Court for the District of Arizona
JURISDICTION	United States District Court for the District of Arizona
DECIDED	March 31, 2026
DOCKET	No. CV-23-00549-TUC-AMM
DISPOSITION	other
PROCEDURAL POSTURE	Cross-motions for summary judgment in an action alleging disability discrimination and failure to provide reasonable accommodation under the Rehabilitation Act.
STANDARD OF REVIEW	Summary judgment is proper when the pleadings and supporting materials show no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. On cross-motions, each motion is reviewed separately, with the nonmoving party receiving the benefit of all reasonable inferences.
PRECEDENTIAL VALUE	unpublished
PARTIES	David Ruiz v. Frank Kendall, Troy Meink, substituted as Defendant

TOPICS

- ada / disability
- disability discrimination
- reasonable accommodation
- employment discrimination
- federal employment law

PRACTICE AREAS

employment law

federal employment law

civil rights

disability discrimination

reasonable accommodation

QUESTIONS PRESENTED

1. Whether Defendant discriminated against Ruiz because of his disability by denying his request to retroactively reinstate and convert annual and sick leave to weather and safety leave.
2. Whether Ruiz was a qualified individual capable of performing the essential functions of the Assistant Lodging Manager position, including whether those functions could be performed by telework.
3. Whether Ruiz exhausted his administrative remedies for his failure-to-accommodate claim.
4. Whether Defendant failed to reasonably accommodate Ruiz by not providing telework or another accommodation.
5. Whether a retroactive conversion of previously used leave could constitute a reasonable accommodation.

HOLDINGS

1. Defendant was entitled to summary judgment on Ruiz's disability-discrimination claim because Ruiz did not produce evidence creating a genuine dispute that the denial of retroactive leave conversion occurred solely because of his disability or resulted from discriminatory animus, thoughtlessness, or indifference.
2. Ruiz failed to exhaust his administrative remedies for his claim that Defendant failed to reasonably accommodate his disability.
3. Even if the failure-to-accommodate claim had been exhausted, Defendant was entitled to summary judgment because Ruiz did not show that Defendant received adequate notice of his desire for telework or another accommodation that would permit him to work from home.
4. A requested accommodation that merely excuses or alters past conduct is not a reasonable accommodation as a matter of law; reasonable accommodation is prospective rather than retroactive.

KEY QUOTATIONS

“The proper question before the Court is whether Plaintiff has put forth specific facts showing there is a genuine dispute that Defendant discriminated against him solely because of his disability when it denied Plaintiff’s request to convert and reinstate his leave.” (at 20)

“That claim fails because an accommodation cannot be retroactive.” (at 23)

FACTUAL BACKGROUND

Ruiz was a civilian non-appropriated-fund employee at Davis-Monthan Air Force Base and served as Assistant Lodging Manager. He had chronic ulcerative colitis and, before and during the COVID-19 pandemic, used annual leave, sick leave, and weather and safety leave after submitting medical documentation recommending reduced hours or time away from the workplace. When Ruiz stopped submitting leave forms in September 2020, his supervisor submitted forms on his behalf using a recurring combination of annual leave, sick leave, and weather and safety leave. After Ruiz returned to work, he sought retroactive conversion of 533 hours of annual

and sick leave to weather and safety leave, but the Air Force denied the request; Ruiz later pursued administrative grievances and EEO proceedings before filing this action.

PROCEDURAL HISTORY

Ruiz filed the action on December 6, 2023, and later filed an amended complaint asserting disability-discrimination and failure-to-accommodate claims under the Rehabilitation Act. The parties filed cross-motions for summary judgment, and the court held oral argument on March 4, 2026. The court granted Defendant's motion, denied Ruiz's motion for partial summary judgment, directed entry of judgment for Defendant, and ordered the case closed.

DISPOSITION

other

CASES CITED

- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Ellison v. Robertson, 357 F.3d 1072, 1075 (9th Cir. 2004)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-51 (1986)
- Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986)
- Brunozzi v. Cable Communications, Inc., 851 F.3d 990, 995 (9th Cir. 2017), cert. denied, 138 S. Ct. 167 (2017)
- Fair Housing Council v. Riverside Two, 249 F.3d 1132, 1136-37 (9th Cir. 2001)
- McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)
- Mattioda v. Nelson, 98 F.4th 1164, 1178 (9th Cir. 2024)
- Coghlan v. American Seafoods Co., 413 F.3d 1090, 1094 (9th Cir. 2005)
- Cummings v. DeJoy, 700 F. Supp. 3d 801, 805 (D. Ariz. 2023)
- Samper v. Providence St. Vincent Medical Center, 675 F.3d 1233, 1237 (9th Cir. 2012)
- Mustafa v. Clark County School District, 157 F.3d 1169, 1175 (9th Cir. 1998)
- Chadwick v. Universidad Interamericana de Puerto Rico, No. CV-18-00377-TUC-RM, 2018 WL 4492286, at *4 (D. Ariz. Sept. 19, 2018)
- Martin v. California Department of Veterans Affairs, 560 F.3d 1042, 1049 (9th Cir. 2009)
- Schmitt v. Kaiser Foundation Health Plan of Washington, 965 F.3d 945, 954 & n.5 (9th Cir. 2020)
- Mark H. v. Lemahieu, 513 F.3d 922, 937-38 (9th Cir. 2008)
- Alexander v. Choate, 469 U.S. 287, 295 (1985)
- Vinson v. Thomas, 288 F.3d 1145, 1154 (9th Cir. 2002)
- Barnett v. U.S. Air, Inc., 228 F.3d 1105, 1112-14 (9th Cir. 2000), vacated on other grounds, U.S. Airways, Inc. v. Barnett, 535 U.S. 391 (2002)
- Gipaya v. Department of the Air Force, 345 F. Supp. 3d 1286, 1299 (D. Haw. 2018)
- Snapp v. United Transportation Union, 889 F.3d 1088, 1095 (9th Cir. 2018)

- EEOC v. Farmer Bros. Co., 31 F.3d 891, 899 (9th Cir. 1994)
- Simpson v. DeJoy, No. CV-20-00495-PHX-DWL, 2021 WL 2416831, at *4 (D. Ariz. June 14, 2021)
- Cherosky v. Henderson, 330 F.3d 1243, 1245 (9th Cir. 2003)
- Leong v. Potter, 347 F.3d 1117, 1122 (9th Cir. 2003)
- Sosa v. Hiraoka, 920 F.2d 1451, 1456 (9th Cir. 1990)
- Josephs v. Pacific Bell, 443 F.3d 1050, 1061 (9th Cir. 2006)
- Freeman v. Oakland Unified School District, 291 F.3d 632, 636-37 (9th Cir. 2002)
- B.K.B. v. Maui Police Department, 276 F.3d 1091, 1100 (9th Cir. 2002)
- Fort Bend County, Texas v. Davis, 587 U.S. 541 (2019)
- Kraus v. Presidio Trust Facilities Division/Residential Management Branch, 572 F.3d 1039, 1043 (9th Cir. 2009)
- Trahan v. Wayfair Maine, LLC, 957 F.3d 54, 65 (1st Cir. 2020)
- Lyons v. England, 307 F.3d 1092, 1105 (9th Cir. 2002)
- Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000)
- Wallis v. J.R. Simplot Co., 26 F.3d 885, 890 (9th Cir. 1994)
- Chandler v. DeJoy, No. CV-20-00924-PHX-DWL, 2024 WL 359469, at *14 (D. Ariz. Jan. 31, 2024)