

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Thomas F. Daugherty v. Cottonwood Heights, a City; and John Does
1-10

Daugherty v. Cottonwood Heights · No. 2:23-cv-00556-DBP · Decided May 19, 2026

SUMMARY

The United States District Court for the District of Utah grants the defendant summary judgment on the plaintiff's ADA claim alleging denial of a promotion under a "regarded as" disability theory. The court concludes that the plaintiff failed to provide sufficient evidence that the defendant regarded him as substantially limited in performing a major life activity. The court also dismisses the Title VII claims based on the plaintiff's representation that references to Title VII were scrivener's errors, while three other claims remain pending.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Dustin B. Pead
JURISDICTION	United States District Court for the District of Utah
DECIDED	May 19, 2026
DOCKET	2:23-cv-00556-DBP
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment in an ADA employment-discrimination action. The court dismissed the Title VII-related claims based on Plaintiff's representations and granted summary judgment on the ADA claim alleging denial of a promotion under a regarded-as-disabled theory; three other claims remained pending.
STANDARD OF REVIEW	Summary judgment was granted where Plaintiff failed to present sufficient evidence that Defendant regarded him as substantially limited in performing a major life activity, including working.
PRECEDENTIAL VALUE	District-court memorandum decision; precedential status not stated
PARTIES	Thomas F. Daugherty v. Cottonwood Heights, a City, John Does 1-10

TOPICS

- ada discrimination
- regarded as disabled
- summary judgment
- title vii
- civil procedure

PRACTICE AREAS

employment law

civil rights

disability discrimination

civil procedure

municipal law

QUESTIONS PRESENTED

1. Whether Plaintiff presented sufficient evidence for a reasonable factfinder to conclude that Defendant regarded him as disabled under the ADA.
2. Whether the Title VII-related claims should be dismissed based on Plaintiff's representation that he was not pursuing Title VII remedies.

HOLDINGS

1. Plaintiff failed to present sufficient evidence that Defendant mistakenly believed he was substantially limited in performing a major life activity, including a class or broad range of jobs, and therefore could not survive summary judgment on his ADA denial-of-promotion claim.
2. The Title VII-related claims were dismissed because Plaintiff admitted that he was not seeking Title VII remedies and that the Title VII references in the amended complaint were scrivener's errors.

KEY QUOTATIONS

"In either case, the focus of the court is on an employer's subjective state of mind."

"It is particularly difficult for a plaintiff to prevail on this type of claim, which takes a plaintiff to the farthest reaches of the ADA. It is not, however, an insurmountable showing."

"In sum, the court concludes Plaintiff has failed to bring sufficient evidence to meet the standard for regarded as disability."

FACTUAL BACKGROUND

Plaintiff alleged that Defendant regarded him as disabled and denied him a promotion in violation of the ADA. He relied in part on being placed on forced administrative leave and being required to undergo a medical fitness-for-duty examination. Plaintiff passed the examination, was cleared for duty, returned to his Sergeant position, and worked there for nearly 18 months before his termination.

PROCEDURAL HISTORY

Plaintiff filed an amended complaint asserting, among other claims, Title VII claims and an ADA claim concerning denial of a promotion. After Plaintiff represented that he was not seeking Title VII remedies and that the Title VII references were scrivener's errors, the court dismissed those claims. Following a hearing on Defendant's motion for summary judgment, the court granted summary judgment on the ADA promotion claim and deferred decision on three remaining claims.

DISPOSITION

other

CASES CITED

- Johnson v. Weld County, Colo., 594 F.3d 1202, 1219 (10th Cir. 2010)
- Sutton v. United Air Lines, Inc., 527 U.S. 471, 489, 119 S. Ct. 2139, 144 L. Ed. 2d 450 (1999)
- Coleman v. Blue Cross Blue Shield of Kan., 487 F. Supp. 2d 1225, 1251 (D. Kan. 2007)
- Coleman v. Blue Cross Blue Shield of Kansas, Inc., 287 F. App'x 631, 20 A.D. Cases 1466, 2008 WL 2662595 (10th Cir. 2008)
- Justice v. Crown Cork and Seal Co., Inc., 527 F.3d 1080, 1086-87 (10th Cir. 2008)
- Williams v. Goodyear Tire & Rubber Co., 44 NDLR P 108, 2011 WL 6091741, at *7-*8 (D. Kan. Dec. 7, 2011)
- E.E.O.C. v. Heartway Corp., 466 F.3d 1156, 1162 (10th Cir. 2006)

OPINION

THE UNITED STATES DISTRICT COURT DISTRICT OF UTAH THOMAS F. DAUGHERTY,
MEMORANDUM DECISION AND ORDER Plaintiff, v. Case No. 2:23-cv-00556-DBP
COTTONWOOD HEIGHTS, a City; and JOHN DOES 1-10, Magistrate Judge Dustin B. Pead
Defendants.

On May 11, 2026, the court heard argument on Defendant's Motion for Summary Judgment.¹ Following argument the court ruled as follows: Plaintiff admitted that he is not seeking Title VII remedies and the Title VII references in the Amended Complaint were scrivener's error.

Thus, Plaintiff's claims relating to Title VII are dismissed pursuant to Plaintiff's representations. Plaintiff's Fourth Claim for Relief is for denial of a promotion in violation of the Americans with Disability Act (ADA).² Plaintiff asserts he was disabled and "intends to proceed under a 'regarded as having ... an impairment' theory, as allowed pursuant to 42 U.S.C.A. § 12102(1)(C)."³ A person is "regarded as" disabled when (1) a covered entity mistakenly believes that a person has a physical impairment that substantially limits one or more major life activities, or (2) a covered entity mistakenly believes that an actual, nonlimiting impairment substantially 1 ECF No. 41.

2 Amended Complaint at 12, ECF No. 38. 3 Plaintiff's Opposition to Defendant's Motion for Summary Judgment at 39, ECF No. 46. limits one or more major life activities."⁴ "Under either theory, it must be shown that the employer has 'misperceptions about the individual—it must believe either that one has a substantially limiting impairment that one does not have or that one has a substantially limiting impairment when, in fact, the impairment is not so limiting.'"⁵ In either case, the focus of the court is on an employer's subjective state of mind.⁶ The question for the court is: "[D]id the employer mistakenly believe that the plaintiff was substantially limited in performing a major life activity?"⁷ Working is a "major life activity."⁸ Defendant argues Plaintiff does not meet the "regarded as" definition.

As noted by another court in this circuit considering this issue, to survive summary judgment, a plaintiff must present some evidence that the defendant believed the plaintiff was “‘significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills, and abilities.’”⁹ The Tenth Circuit explained this burden on the plaintiff as follows: It is particularly difficult for a plaintiff to prevail on this type of claim, which takes a plaintiff to the farthest reaches of the ADA.

It is not, however, an insurmountable showing.¹⁰ 4 *Johnson v. Weld County, Colo.*, 594 F.3d 1202, 1219 (10th Cir.2010); see also *Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 489, 119 S.Ct. 2139, 144 L.Ed.2d 450 (1999) (There are two apparent ways in which individuals fall with the “‘regarded as” category. “(1) a covered entity mistakenly believes that a person has a physical impairment that substantially limits one or more major life activities, or (2) a covered entity mistakenly believes that an actual, nonlimiting impairment substantially limits one or more major life activities.”).

5 *Coleman v. Blue Cross Blue Shield of Kan.*, 487 F. Supp. 2d 1225, 1251 (D. Kan. 2007), *aff’d* sub nom. *Coleman v. Blue Cross Blue Shield of Kansas, Inc.*, 287 F. App’x 631, 20 A.D. Cases 1466, 2008 WL 2662595 (10th Cir. 2008) (quoting *Sutton*, 537 U.S. at 489). 6 *Justice v. Crown Cork and Seal Co., Inc.*, 527 F.3d 1080, 1086 (10th Cir.2008); see also *Williams v. Goodyear Tire & Rubber Co.*, 44 NDLR P 108, 2011 WL 6091741, at *7 (D.

Kan. Dec. 7, 2011) (applying “regarded as” disabled category). 7 *Id.* 8 29 C.F.R. § 1630.2(i); *EEOC v. Heartway Corp.*, 466 F.3d 1156, 1162 (10th Cir. 2006). 9 *Williams v. Goodyear Tire & Rubber Co.*, 44 NDLR P 108, 2011 WL 6091741, at *8 (quoting *E.E.O.C. v. Heartway Corp.*, 466 F.3d 1156, 1162 (10th Cir. 2006)). 10 *Justice v. Crown Cork and Seal Co. Inc.*, 527 F.3d 1080, 1087 (10th Cir.

2008). In this case, the court finds Plaintiff fails to meet this burden. Plaintiff points to Defendant’s alleged dishonesty about his disability. Plaintiff also states “the fact that Russo required Daugherty to go on forced administrative leave and submit to a medical evaluation of fitness for duty reflects Russo’s concern that Daugherty may not be able to perform a broad class of jobs, including patrol officer duties and supervisory duties.”¹¹ This argument is undermined by the fact that Plaintiff passed his examination, was cleared for duty, and returned to his position as Sergeant for nearly 18 months until his termination.

In sum, the court concludes Plaintiff has failed to bring sufficient evidence to meet the standard for regarded as disability. Thus, summary judgment is granted for Defendant as to claim four. Finally, Plaintiff’s three other claims remain pending as of the date of this order. At the conclusion of the hearing, the court ordered the parties to submit their respective proposed findings of fact and conclusions of law for the remaining claims by June 30, 2026.

After considering those submissions the court will render a decision on the remaining claims. CONCLUSION AND ORDER Plaintiff's Title VII claims are dismissed. IT IS FURTHER ORDERED that Defendant is granted summary judgment as to Plaintiff's Fourth Claim for Relief for denial of a promotion in violation of the ADA. Plaintiff's remaining three claims remain pending further decision by the court.

IT IS SO ORDERED. 11 Plaintiff's Opposition to Defendant's Motion for Summary Judgment at 40-41. DATED this 19 May 2026. Dust Pyad ° United States Magistrate Judge