

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Margherita v. FedEx Express

511 F. App'x 71 (2d Cir. 2013) · No. 11-4859-cv · Decided February 7, 2013

SUMMARY

The Second Circuit affirmed in part, vacated in part, and remanded a summary judgment ruling in favor of FedEx and Joseph Randall. The court held that disputed evidence concerning the validity, necessity, and scope of a hearing-related field test precluded summary judgment on Ross Margherita's discrimination claims under the ADA, Rehabilitation Act, NYSHRL, and NYCHRL. The court affirmed summary judgment on the hostile work environment and other remaining claims.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Ralph K. Winter; Rosemary S. Pooler; Denny Chin
JURISDICTION	Federal
DECIDED	February 7, 2013
DOCKET	11-4859-cv
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff appealed from the Eastern District of New York's grant of summary judgment to the defendants on claims arising from an employer-administered hearing field test and alleged disability-based harassment.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, with the evidence construed in the light most favorable to the nonmoving party and all reasonable inferences drawn in that party's favor.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Ross Margherita v. FedEx Express, FedEx Corporation, Federal Express Corporation, Joseph Randall

TOPICS

ada discrimination

disability discrimination

hostile work environment

standard of review

appellate procedure

PRACTICE AREAS

employment law

disability discrimination

civil rights

QUESTIONS PRESENTED

1. Whether summary judgment was proper on Margherita's ADA and Rehabilitation Act discrimination claims where the employer's hearing-related field test may have been an inquiry into the nature or severity of his disability that was not job-related and consistent with business necessity.
2. Whether summary judgment was proper on Margherita's New York City Human Rights Law discrimination claim under the statute's broader and more liberal construction.
3. Whether Margherita presented sufficient evidence to support a disability-based hostile work environment claim under the ADA or applicable New York law.

HOLDINGS

1. Summary judgment was improper on the ADA and Rehabilitation Act discrimination claims because a reasonable jury could find that the field test was not vital to FedEx's business and was more intrusive than necessary.
2. Summary judgment was improper on the NYCHRL discrimination claim because material factual disputes remained regarding whether the field test was job-related and consistent with business necessity.
3. The district court properly granted summary judgment on the hostile work environment claim because no reasonable juror could find that Margherita was subjected to harassment on the basis of his disability.

KEY QUOTATIONS

“In order to satisfy the ADA’s business necessity exception, FedEx “must first show that the asserted ‘business necessity’ is vital to the business” and “that the examination or inquiry genuinely serves the asserted business necessity and that the request is no broader or more intrusive than necessary.”” (at 2)

“We conclude that no reasonable juror could find that Margherita was subjected to harassment on the basis of his disability.” (at 3)

FACTUAL BACKGROUND

FedEx administered a hearing-related field test to Margherita, an employee with a hearing impairment, in connection with alleged safety infractions. The record contained evidence that the test was audiologically and methodologically unsound and that the alleged safety infractions were unrelated to Margherita's hearing. Margherita also alleged disability-based harassment, but conceded that he had good working relationships with his supervisors, was not touched or abused by Randall, and was praised for his work.

PROCEDURAL HISTORY

The district court entered judgment for FedEx and Joseph Randall on October 25, 2011, after granting defendants' motion for summary judgment. The Second Circuit affirmed the judgment on the hostile work

environment and other claims, but vacated summary judgment on the discrimination claims under the ADA, Rehabilitation Act, New York State Human Rights Law, and New York City Human Rights Law, and remanded for further proceedings.

DISPOSITION

other

REMAND INSTRUCTIONS

The case was remanded for further proceedings on the discrimination claims under the ADA, Rehabilitation Act, NYSHRL, and NYCHRL. The judgment was affirmed on all other claims.

CASES CITED

- Kuebel v. Black & Decker Inc., 643 F.3d 352, 358 (2d Cir. 2011)
- Miller v. Wolpoff & Abramson, L.L.P., 321 F.3d 292, 300 (2d Cir. 2003)
- Conroy v. N.Y. State Dep't of Corr. Servs., 333 F.3d 88, 97-98 (2d Cir. 2003)
- Loeffler v. Staten Island Univ. Hosp., 582 F.3d 268, 278 (2d Cir. 2009)
- Albunio v. City of New York, 16 N.Y.3d 472, 477-78 (2011)