

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Mitchell Klein v. Douglas Collins, Secretary for the Department of
Veteran Affairs

Case No. 23-cv-1231-bhl · No. 23-cv-1231-bhl · Decided February 20, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin adjudicated cross-motions for summary judgment in Mitchell Klein’s employment-discrimination action against the Department of Veterans Affairs. The court granted the defendant’s motion as to Klein’s Title VII claims because Title VII does not provide a remedy for disability discrimination, but denied both parties’ motions on the Rehabilitation Act retaliation and hostile-work-environment claims due to unresolved factual disputes. The court also held that Klein could pursue evidence of continuing alleged violations but could not assert an unpleaded failure-to-promote claim.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Brett H. Ludwig
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	February 20, 2026
DOCKET	23-cv-1231-bhl
DISPOSITION	other
PROCEDURAL POSTURE	Cross-motions for summary judgment in an action alleging disability discrimination, retaliation, and hostile work environment under Title VII and the Rehabilitation Act.
STANDARD OF REVIEW	Summary judgment is appropriate when the record shows no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. The court views disputed facts and reasonable inferences in favor of the nonmoving party, but the nonmoving party must identify specific facts establishing a genuine issue for trial.
PRECEDENTIAL VALUE	unpublished
PARTIES	Mitchell Klein v. Douglas Collins, Secretary for the Department of Veteran Affairs

TOPICS

ada / disability

retaliation

hostile work environment

summary judgment

civil procedure

PRACTICE AREAS

employment law

federal employment law

civil rights

disability discrimination

civil procedure

QUESTIONS PRESENTED

1. Whether Title VII provides a cause of action for disability-based retaliation and hostile work environment claims.
2. Whether either party was entitled to summary judgment on Klein's Rehabilitation Act retaliation claim.
3. Whether either party was entitled to summary judgment on Klein's Rehabilitation Act hostile work environment claim.
4. Whether Klein could pursue alleged continuing violations under the Rehabilitation Act based on conduct involving supervisors who followed the supervisor named in his EEOC charge.
5. Whether Klein could pursue a failure-to-promote claim that was not pleaded in the amended complaint.

HOLDINGS

1. Title VII does not provide a remedy for discrimination, retaliation, or hostile work environment claims based solely on disability; Title VII protects against discrimination based on race, color, religion, sex, and national origin.
2. Neither party was entitled to summary judgment on Klein's Rehabilitation Act retaliation claim because the record left genuine factual disputes about whether the alleged actions were materially adverse and causally connected to protected activity.
3. Neither party was entitled to summary judgment on Klein's Rehabilitation Act hostile work environment claim because the evidence presented genuine factual disputes concerning disability, harassment, severity or pervasiveness, and employer liability.
4. Klein may present evidence of continuing retaliation and hostile work environment at trial if the alleged continuing violations are like or reasonably related to the conduct described in his EEOC charges.
5. Klein may not pursue a failure-to-promote claim that was not pleaded in the amended complaint and was raised only during discovery and summary judgment briefing.

KEY QUOTATIONS

"Title VII simply does not apply to the disability discrimination that Klein claims to have suffered." (I)

"Without compelling and undisputed evidence explaining the context of this case, the Court cannot make such a ruling." (II.A)

"Whether [the] harassment [is] so severe or pervasive as to constitute a hostile work environment is generally a question of fact for the jury." (II.B)

“Klein may only proceed with his claims for retaliation and hostile work environment under the Rehabilitation Act.” (Conclusion)

FACTUAL BACKGROUND

Klein has worked part-time as a VA radiologist since 2015. After a claimed work-related back injury in 2016, he requested a reasonable accommodation and later filed EEOC charges concerning the accommodation and disclosure of related medical information. He alleged that the VA retaliated against him and subjected him to a disability-based hostile work environment through conduct including scheduling changes, disciplinary accusations, exclusion from meetings, denial of leave, altered medical records, and removal of cases. The parties presented extensive but poorly organized evidence, leaving material factual disputes concerning the context, nature, and causation of the alleged actions.

PROCEDURAL HISTORY

Klein filed an amended complaint against the Secretary of the Department of Veterans Affairs after filing EEOC charges concerning a requested accommodation and disclosure of medical information. Following discovery disputes and an unsuccessful mediation, both parties moved for summary judgment. The court granted the defendant's motion in part, dismissing Klein's Title VII claims and denying the parties' motions as to the Rehabilitation Act claims; it also denied Klein's attempt to pursue an unpleaded failure-to-promote claim.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. The case is to proceed to trial on Klein's Rehabilitation Act retaliation and hostile work environment claims.

CASES CITED

- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 250 (1986)
- *Contreras v. City of Chicago*, 119 F.3d 1286, 1291-92 (7th Cir. 1997)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-25 (1986)
- *Modrowski v. Pigatto*, 712 F.3d 1166, 1168 (7th Cir. 2013)
- *Matsushita Electric Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986)
- *First National Bank of Arizona v. Cities Service Co.*, 391 U.S. 253, 289 (1968)
- *EEOC v. Sears, Roebuck & Co.*, 233 F.3d 432, 437 (7th Cir. 2000)
- *Marnocha v. St. Vincent Hospital & Health Care Center, Inc.*, 986 F.3d 711, 718 (7th Cir. 2021)
- *Tyburski v. City of Chicago*, 964 F.3d 590, 597 (7th Cir. 2020)
- *Abrego v. Wilkie*, 907 F.3d 1004, 1012 (7th Cir. 2018)
- *Sitar v. Indiana Department of Transportation*, 344 F.3d 720, 727 (7th Cir. 2003)

- Fuller v. McDonough, 84 F.4th 686, 690 (7th Cir. 2023)
- Lesiv v. Illinois Central Railroad Co., 39 F.4th 903, 911-12 (7th Cir. 2022)
- Griffin v. Potter, 356 F.3d 824, 829 (7th Cir. 2004)
- Scaife v. United States Department of Veterans Affairs, 49 F.4th 1109, 1119 (7th Cir. 2022)
- Huri v. Office of Chief Judge of the Circuit Court of Cook County, 804 F.3d 826, 833 (7th Cir. 2015)
- Burlington Northern & Santa Fe Railway Co. v. White, 548 U.S. 53, 68 (2006)
- Igasaki v. Illinois Department of Financial & Professional Regulation, 988 F.3d 948, 959-60 (7th Cir. 2021)
- Ford v. Marion County Sheriff's Office, 942 F.3d 839, 856 (7th Cir. 2019)
- Johnson v. Advocate Health & Hospitals Corp., 892 F.3d 887, 900-01 (7th Cir. 2018)
- Mannie v. Potter, 394 F.3d 977, 982 (7th Cir. 2005)
- Alexander v. Casino Queen, Inc., 739 F.3d 972, 982 (7th Cir. 2014)
- Vance v. Ball State University, 570 U.S. 421, 427 (2013)
- Alamo v. Bliss, 864 F.3d 541, 549-51 (7th Cir. 2017)
- Harris v. Forklift Systems, Inc., 510 U.S. 17, 23 (1993)
- Jackson v. County of Racine, 474 F.3d 493, 500 (7th Cir. 2007)
- Passananti v. Cook County, 689 F.3d 655, 667 (7th Cir. 2012)
- Chaidez v. Ford Motor Co., 937 F.3d 998, 1004-05 (7th Cir. 2019)
- McHale v. McDonough, 41 F.4th 866, 869 (7th Cir. 2022)
- Cheek v. Western & Southern Life Insurance Co., 31 F.3d 497, 500-02 (7th Cir. 1994)
- Schmees v. HC1.COM, Inc., 77 F.4th 483, 488-89 (7th Cir. 2023)
- Wolf v. Northwest Indiana Symphony Society, 250 F.3d 1136, 1142 (7th Cir. 2001)
- Faragher v. City of Boca Raton, 524 U.S. 775, 807-08 (1998)
- Molnar v. Booth, 229 F.3d 593, 600 (7th Cir. 2000)

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