

6th Circuit: Employee Unable to Prove ADA Claim Based on Wife's Condition

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By William N. Ota

A nondisabled employee discharged for performance deficiencies failed to establish an Americans with Disabilities Act (ADA) claim premised upon his wife's physical condition, the 6th U.S. Circuit Court of Appeals held.

Air Wisconsin Airlines Corporation is a regional carrier that operates flights for larger airlines. Eugene Stansberry began managing the carrier's Kalamazoo Airport operations in 1999. Stansberry's wife had, a few years earlier, developed a debilitating autoimmune disorder resulting in, among other things, severe pain and a stroke. Her symptoms were significantly mitigated by expensive off-label treatments covered by the carrier's group medical plan.

In early- to mid-2007, Stansberry's wife's condition began to worsen, and the carrier's health plan announced that it would no longer cover her treatments. During the same time period, Air Wisconsin significantly expanded its Kalamazoo operations and the size of the staff supervised by Stansberry. When several of these new employees were cited for security violations, Stansberry did not report the violations to the carrier's headquarters. Stansberry's supervisor, Marvin Mulder, learned of the violations when headquarters received a letter of investigation from the Transportation Security Administration (TSA).

Mulder, whose relationship with Stansberry had already been strained, notified the TSA that Stansberry would be severely disciplined. He met with Stansberry in July 2007 and terminated Stansberry's employment for poor performance including, but not limited to, his handling of the security violations.

Stansberry sued Air Wisconsin for an alleged violation of Section 12112(b)(4) of the ADA, which prohibits discrimination based on a third person's disability, commonly referred to as "associational discrimination." Specifically, Stansberry relied on the "distraction" theory that applies where an employee is believed or anticipated to be "somewhat inattentive at work" because of another's disability. The district court granted summary judgment in Air Wisconsin's favor, finding that Stansberry had not established the basic elements of his claim, and that his poor performance was a legitimate, nonpretextual reason for his discharge.

On appeal, the 6th Circuit adopted a burden-shifting approach similar to that used for other employment discrimination claims. Under this approach, the court affirmed summary judgment as Stansberry was unable to establish, as a basic element of his claim, that his discharge "occurred under circumstances that raise a reasonable inference that the disability of the relative was a determining factor in the decision."

The 6th Circuit held that the record contained significant evidence that Stansberry was not performing to the carrier's satisfaction and no evidence that he was discharged for fear that his wife's illness would distract him from his duties. Although Stansberry argued that the required inference could be made based on the closeness in time between his discharge and the worsening of his wife's condition, the court pointed out that Air Wisconsin had been aware of his wife's disability for many years. The 6th Circuit also held

that, even if Stansberry were able to establish the basic elements of his claim, summary judgment would be appropriate because his poor performance was a legitimate nondiscriminatory reason for his discharge, and there was no evidence to suggest that this reason was a pretext for discrimination.

Although the court recognized that Stansberry's poor performance was probably attributable to his wife's condition, it held this relationship to be irrelevant as the ADA does not require employers to make reasonable accommodations based on a spouse's disability; because the discharge was based on Stansberry's actual performance, and not simply on fears that his performance would be impaired by his wife's condition, the court held that it did not violate Section 12112(b)(4) of the ADA.

Stansberry v. Air Wisconsin Airlines Corp., 6th Cir., No. 09-2499 (July 6, 2011).

Professional Pointer: Although Section 12112(b)(4) does not require reasonable accommodations, an employer's handling of a request for such accommodations may constitute evidence of the employer's intent. If, in the weeks prior to his discharge, Stansberry indicated that his performance would improve as his wife's condition stabilized, he might have survived summary judgment if Air Wisconsin expressed doubt that his performance would return to previous levels.

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