
**Federal Court Report**

**County Pension Plan for Retirees with Disabilities Upheld**

7/25/2022

By Rebekah Ray - Marr Jones & Wang LLP
*A member of* [*Worklaw® Network*](http://www.worklaw.com)

An Indiana county pension plan that provides cost-of-living increases for nondisabled retirees, but not for retirees with disabilities, does not constitute unlawful discrimination, according to the 7th U.S. Circuit Court of Appeals.

The plaintiff in this case was a former police officer with the Lake County Sheriff's Department in Indiana who had a workplace injury that left him with a permanent disability. The plaintiff retired and began receiving a monthly disability pension.

The department provides monthly pension benefits to retirees and to those who retire early because of a disability. For nondisabled retirees, the department calculates benefits based on the number of years the retiree spends on the job. Once retirees turn 55 years old, they become eligible for annual cost-of-living increases. For employees who retire early because of a disability, the department calculates benefits as if that person has been on the job for 32 years but they are not eligible for cost-of-living increases. The plaintiff sued Lake County, arguing that this policy violated the Equal Protection Clause of the 14th Amendment and other laws that protect workers with disabilities.

The lower court did not reach the merits of the plaintiff's case but ruled instead that his claims were barred by a prior settlement agreement. On appeal, the 7th Circuit reversed and concluded that the prior agreement did not bar the plaintiff's claims because it expressly stated it would not affect the plaintiff's pension and other retirement benefits. Also, the settlement agreement did not cover claims that arose after the effective date of the agreement.

Turning to the merits of the plaintiff's claim, the 7th Circuit ruled that the county pension plan did not violate the Equal Protection Clause. The appeals court noted that the county had a legitimate interest in providing pension plans that meet the differing needs of distinct groups. The cost-of-living adjustment is only one of several differences in the plans.

Nondisabled retirees, for example, are required to contribute a portion of their salary to the plan every year until they become eligible for retirement, and they become eligible only after 20 years on the job. By contrast, employees who retire due to a disability receive benefits right away upon retiring, regardless of how long they were employed by the department. The plaintiff had been working for the department for only eight years when he began receiving disability pension benefits. The appeals court noted that retirees with disabilities also receive a lump sum of all contributions they had previously made to the plan with interest, while nondisabled retirees do not.

Viewing the different plans as a whole, the appeals court concluded that the differences in the plans were rationally related to the county's legitimate interest in providing benefits that met the needs of all employees, both past and present. The appeals court determined that Lake County could have rationally believed that former employees with disabilities would benefit more from an upfront lump sum than a cost-of-living adjustment provided years in the future. In addition, the court had a legitimate interest in promoting long-term careers in the department and providing more generous benefits to those employees who have worked for it the longest.

Based on the foregoing, the appeals court held that the county's policy did not violate the Equal Protection Clause, noting that local government decisions can survive scrutiny under the Equal Protection Clause even if they only imperfectly achieve the legitimate government interest they aim to advance.

*Ostrowski v. Lake Cty.*, 7th Cir., Nos. 21-1674/21-2580, 2022 WL 1486054 (May 11, 2022).

**Takeaway:** A sheriff's department's ability to show that its pension plan was rationally related to a legitimate government purpose was instrumental to its success in appealing this case. Government employers should ensure that they can do the same when implementing a policy that could be viewed as discriminatory to people with disabilities.

 *Rebekah Ray is an attorney with* [*Marr Jones & Wang LLP*](https://worklaw.com/firms/marr-jones-wang-lllp)*, the Worklaw® Network member firm in Honolulu.*