Supreme Court Strikes Down Employer's Light Duty Policy in Pregnancy Discrimination Case

Insights
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Today, the U.S. Supreme Court ruled in a 6-3 decision that an employee should have her day in court to determine whether or not United Parcel Service, Inc. violated the Pregnancy Discrimination Act when it denied light-duty work to a pregnant employee who was restricted from heavy lifting by her medical provider.

UPS had a policy limiting work accommodations (such as light duty) to three classes of workers regardless of whether or not the workers requested light duty as a result of pregnancy. The Court held today that the employee had shown that there was a genuine factual dispute as to whether or not UPS treated some employees more favorably without having reasonable, non-discriminatory reasons for doing so. *Young v. UPS.*

Background
The Pregnancy Discrimination Act (PDA), enacted in 1978, amended the definition of sex discrimination under Title VII of the Civil Rights Act to include discrimination based on pregnancy. Pursuant to the PDA, employers are prohibited from discriminating against employees because of pregnancy, childbirth, or related medical conditions, and employers are prohibited from singling-out pregnancy for different treatment when it comes to benefits or other conditions of work.

Last year, the Equal Employment Opportunity Commission (EEOC) published a set of guidelines interpreting the meaning of the PDA and directing employers to treat pregnant employees the same as other employees requesting light-duty work. Under the EEOC's interpretation, employers should not be permitted to reserve light-duty work for workers suffering on-the-job injuries. The Supreme Court stated today that the guidelines were inconsistent with prior positions advocated by the Government, and the Court did not give them any weight in formulating its decision.

The Driving Force
Peggy Young was employed by UPS as a part-time delivery driver, delivering packages from its facility based in Landover, Maryland. In 2006, Young became pregnant and was advised by her medical provider to refrain from lifting heavy packages. Young provided her supervisor at UPS with a doctor's note stating that she should not lift more than 20 pounds during the first 20 weeks of her pregnancy and that she should not lift more than 10 pounds thereafter. UPS's occupational health manager informed Young that, according to company policy, Young would not be permitted to work there as long as she had the lifting restriction, even though Young was willing to do light-duty work

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UPS had a policy of accommodating workers with light-duty restrictions if the restrictions were the result of a work-related injury. (Its policy also permitted accommodations for workers who were considered "disabled" under the ADA and for drivers who temporarily were unable to drive because of DOT certification requirements, but the pertinent provision in this case was the accommodation for workers injured on the job.)

Because Young's restriction was not the result of a work-related injury, UPS denied her request for light-duty work. Since Young was not able to perform the regular duties of her job, which required her to be able to lift and deliver heavy packages, UPS did not allow her to return to work at all. Young exhausted all of her FMLA leave time and went on an extended, unpaid leave of absence, and her medical benefits eventually expired. Young eventually returned to work at UPS at some point after the birth of her child. She filed suit against UPS for damages, including her loss of income and benefits, alleging that UPS violated the PDA by denying her employment during the time of her restriction instead of assigning her to a light-duty position.

Question Before the Court

The trial court dismissed Young's lawsuit before trial because: a) Young did not have any direct evidence of discrimination; and b) she did not establish that she had been treated less favorably than any nonpregnant employees with similar work restrictions. Under established anti-discrimination law, Young was required to prove one or both of these elements in order to have a valid claim of discriminatory treatment by her employer. The U.S. Court of Appeals for the 4th Circuit affirmed the decision of the trial court, holding that the PDA does not require employers to give special treatment to pregnant employees.

The parties called upon the Supreme Court to address the validity of UPS's policy in general, in light of the mandates of the PDA prohibiting discrimination based on pregnancy. Young stressed the need for the Court to interpret one clause of the Pregnancy Discrimination Act, which states that "women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work."

Young argued that this clause means that she should have been treated the same as workers requesting light duty due to work-related injuries, even if there were other nonpregnant employees who were denied light-duty work. The lower courts had interpreted this argument as giving pregnant workers a "most favored nation" status in the realm of all employees.

While the Court today acknowledged that it was doubtful that Congress intended such a result, the Court emphasized that, when an employer implements a policy that, in effect, imposes a burden on pregnant workers, an employee should be afforded the opportunity to show that the reasons for the policy are insufficient to justify the burden.

The Court's Ruling

Today, the Court found that Ms. Young should be afforded that opportunity. Finding that an employee can create an issue for trial by providing evidence that the employer accommodated "a large percentage of nonpregnant workers while failing to accommodate a large percentage of pregnant workers." The Court stated that Young had shown there was a real question as to "whether UPS provided more favorable treatment to at least some employees whose situation cannot reasonably be distinguished from hers." The Court left it to the lower court to determine whether or not she had also shown that there was a real question as to "whether UPS' reasons for having treated Young less favorably than those other nonpregnant employees were pretextual."

What Does the Decision Mean for Employers?

Although the question before the Court was limited to the narrow issue of UPS' light-duty policy (which has since been revised), today's holding could be interpreted as applying to a broader range of employer practices. What this means for employers is that pregnant employees may in effect enjoy a "most favored nation" status among the realm of impaired employees, and employers should review the reasons for any policy that might impose a burden on pregnant employees. If a policy makes accommodations for some workers but not others, it would be prudent to consider what accommodations might be made for a pregnant employee in order to avoid running afoul of the PDA.

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