Maryland UPS Worker’s Pregnancy Discrimination Case Heads to the Supreme Court

By Roberta Roberts in Discrimination, Labor Employment, Maryland Law July 18th, 2014

Eight years ago, Maryland’s Reasonable Accommodations for Pregnant Workers Act (“RAPWA”) [1], which went into effect on October 1, 2013, did not exist, and the United Parcel Service (“UPS”) denied a pregnant Maryland employee’s request to lift no more than 20 pounds at work on the written advisement of her doctor.

Instead, she was given unpaid leave because her pregnant condition did not fall under one of the three categories eligible at the time for accommodations/light duty assignments under UPS’ collective bargaining agreement: (1) those who were injured on the job, (2) those who were eligible for accommodations under the Americans with Disabilities Act (“ADA”), or (3) those who had lost their Department of Transportation certification because of a failed medical exam, a lost driver’s license, or involvement in a motor vehicle accident.

The issue of pregnancy discrimination has received a lot of attention in recent years. Circuits have been split on the issue [2], Congress passed 2008 amendments to the ADA to require employers to accommodate workers’ temporary disabilities, the Equal Employment Opportunity Commission (“EEOC”) is set to provide guidance about the amendments, and President Barack Obama has recently urged Congress to pass the Pregnant Workers Fairness Act introduced in the Senate last year. Now, even the Supreme Court of the United States has decided to hear the issue of “whether, and in what circumstances, an employer that provides work accommodations to non-pregnant employees with work limitations must provide work accommodations to pregnant employees who are
The case coming before the Supreme Court for the October Term is Young v. United Parcel Service, Inc., an appeal from Young v. United Parcel Service, Inc., 707 F.3d 437 (4th Cir. 2013). Peggy Young, a part-time package delivery driver for UPS in Landover, Maryland, became pregnant in 2006 and asked for a light-duty assignment. Her supervisor denied her request, explaining UPS did not offer such accommodations for pregnancy-related limitations, so Young took an extended leave of absence without pay and ultimately lost her medical coverage. Young filed a discrimination claim with the EEOC in 2007 alleging violations of the ADA and the Pregnancy Discrimination Act (“PDA”) and sued UPS in the U.S. District Court for the District of Maryland in 2008. After losing at the trial level, Young appealed to the U.S. Court of Appeals for the Fourth Circuit in 2013. Young argues that the PDA requires employers to provide pregnant employees the same accommodations as non-pregnant disabled workers who are similar in their ability or inability to work. But, both the district court and the Fourth Circuit found that UPS did not discriminate against Young under the PDA because its policy treats pregnant workers and nonpregnant workers alike in eligibility for accommodations.

In an amicus curiae brief, the United States explains that a majority of circuit courts that hear claims similar to Young’s – including the Fourth Circuit – “erred in interpreting Title VII [of the Civil Rights Act of 1964]’s requirement that employers treat employees with pregnancy-related limitations as favorably as nonpregnant employees who are similar in their ability or inability to work.” However, the Justice Department nevertheless lobbied against the Supreme Court taking the case, stating that although the question presented is “important and recurring,” Supreme Court review is not needed at this time because: 1) Congress’s enactment of the ADA Amendments Act of 2008 “may lead courts to reconsider their approach to evaluating a pregnant employee’s claim that other employees with similar limitations on their ability to work were treated more favorably than she and may diminish the adverse effect of the courts of appeals’ error” and 2) the EEOC is currently considering the adoption of new enforcement guidance on pregnancy discrimination that should clarify the Commission’s interpretation of issues related to pregnancy under the PDA and the ADA.

However, there may be another reason why courts may need to reconsider their stance on this issue: the increasing passage of state and local laws like Maryland’s RAPWA. Twelve states (Alaska, California, Connecticut, Hawaii, Illinois, Louisiana, Iowa, Maryland, Minnesota, New Jersey, Texas and West Virginia) and four cities (New York City, Philadelphia, Providence and Central Falls, R.I.) have similar pregnancy anti-discrimination laws and Maryland’s law seems to be directly applicable to this case. Although the law is not retroactive, so it cannot be applied to Young’s case, if these same set of facts arose today, there would be a different outcome under RAPWA. Instead of requiring the comparison of non-pregnant and pregnant workers, Maryland’s RAPWA requires employers to make reasonable accommodations for pregnancy-related disabilities as long as such accommodations do not present an undue hardship to the employer. This provision addresses the language in the PDA requiring employers to treat pregnant workers the same as those “similar in their ability or inability to work,” which some courts have rendered meaningless by interpreting them to mean that accommodations do not need to be provided for pregnant employees that would have been otherwise unavailable for non-pregnant employees with similar disabilities.

With the recent passage of Maryland’s RAPWA and pregnancy discrimination being a hot topic in all branches of government, it will be interesting to see how this case with Maryland roots plays out in the Supreme Court. Stay tuned to JGL’s blog for updates on this issue.

[2] A 1996 U.S. Court of Appeals for the Sixth Circuit decision allowed a similar pregnancy discrimination claim to move forward. See Ensley-Gaines v. Runyon, 100 F.3d 1220 (6th Cir. 1996)(concluding that, “instead of merely recognizing that discrimination on the basis of pregnancy constitutes unlawful sex discrimination under Title VII,” the PDA “provided additional protection to those ‘women affected by pregnancy, childbirth or related medical conditions’ by expressly requiring that employers provide the same treatment of such individuals as provided to ‘other persons not so affected but similar in their ability or inability to work.’” Id. at 1226 (quoting 42 U.S.C. § 2000e(k)).


[7] Id. at 8.

[8] Id.


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