



U.S. Supreme Court Establishes Framework for Pregnancy Discrimination Lawsuits

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In a ruling with significant implications for every business in the country, the U.S. Supreme Court recently ruled that a plaintiff may be able to prove pregnancy discrimination through evidence that her pregnancy or pregnancy-related condition was not accommodated while other non-pregnant employees were accommodated.

BACKGROUND FACTS

The case of *Young v. UPS* involved Young, a part-time driver for UPS, who was advised by her doctor not to lift more than 20 pounds after becoming pregnant. UPS policy, however, required drivers to be able to lift up to 70 pounds. UPS did not permit Young to work as a driver due to the lifting restriction, so she was involuntarily placed on unpaid leave. Young subsequently brought suit against UPS under the federal Pregnancy Discrimination Act (PDA), alleging that UPS wrongfully failed to accommodate her pregnancy-related condition.

The PDA has two sections. The first provides that bias against pregnant workers is a form of unlawful discrimination based on gender. The second requires that pregnant workers be treated the same as other similarly situated workers. This case involves an analysis of the second section.

In the trial court, Young argued that UPS had in place policies that accommodated other employees who suffered on-the-job injuries or disabilities covered by the Americans with Disabilities Act (ADA) and, consequently, could not perform UPS's lifting requirements. Young alleged that UPS also accommodated those who had lost their Department of Transportation (DOT) certification. Accordingly, Young argued, UPS accommodated "other persons" but not pregnant workers such as Young. UPS countered that Young did not meet the standards or have the conditions of other accommodated workers, and thus it had lawfully treated her consistent with "other relevant persons" under the PDA.

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UPS moved for summary judgment and its motion was granted. The case was subsequently appealed to the U.S. Court of Appeals for the Fourth Circuit, which affirmed the U.S. District Court's ruling.

THE SUPREME COURT RULING

The Supreme Court reversed the lower courts and created a framework under which claims for pregnancy discrimination can be brought. It held that an individual may establish a prima facie case of pregnancy discrimination by "showing actions taken by the employer from which one can infer, if such actions remain unexplained, that it is more likely than not that such actions were based on a discriminatory criterion." In order to show disparate treatment, the employee needs to satisfy a four-part test by demonstrating that: (i) she was pregnant; (ii) she sought the accommodation; (iii) her employer refused; and (iv) that the employer did accommodate others who are "similar in their ability or inability to work."

Once a plaintiff meets the initial burden of establishing her prima facie case, the burden shifts to the employer to prove that its refusal to provide the requested accommodation is based on "legitimate, nondiscriminatory" reasons. The Court cautioned that an employer's justification that it is simply "more expensive or less convenient" to provide the accommodation to pregnant women is insufficient to rebut a plaintiff's prima facie case.

If an employer can prove that its justification for refusing to accommodate is based on "legitimate, nondiscriminatory" reasons, then the burden shifts back to the plaintiff to demonstrate that the employer's justification is merely pretextual (*i.e.*, not based on a legitimate business rationale). The Court explained that this burden can be met by presenting evidence that the employer's policies "impose a significant burden on pregnant workers, and that the employer's 'legitimate, non-discriminatory' reasons are not sufficiently strong to justify the burden, but rather – when considered along with the burden imposed – give rise to an inference of intentional discrimination."

In this case, the Court explained that, assuming the facts presented by Young are accurate, her claim may have merit given "that UPS accommodates most non-pregnant employees with lifting limitations while categorically failing to accommodate pregnant employees with lifting limitations." In other words, a plaintiff can use circumstantial evidence to rebut and overcome an employer's supposed "legitimate, or non-discriminatory" reasons for denying the requested accommodation.

In the end, a majority of the Court sided with Young and sent the case back to the lower court with instructions to apply the new framework for proving pregnancy discrimination that the Court established.

KEY TAKEAWAY

This decision serves as a good reminder to employers to review their accommodation policies to make sure that they do not discriminate against employees who are pregnant, or those in any other protected class. Please contact a Foster Swift employment law attorney if you would like assistance in ensuring your workplace policies are legal and serving both your and your employees' best interests.