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7th Circuit: Actual Denial of Leave Not Necessary for FMLA Interference Claim

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On June 1, 2022, the Seventh Circuit reversed the entry of summary judgment on a Family and Medical Leave Act ("FMLA") claim, holding that an actual denial of an employee's FMLA leave request is not necessary to constitute an FMLA violation. Rather, the FMLA may be violated where an employer discourages an employee from taking FMLA leave. The case is *Ziccarelli v. Thomas J. Dart, et al.*, No. 19-cv-3435.

Background

In September 2016, Plaintiff called his employer's FMLA benefits manager to discuss taking some of his remaining FMLA leave to attend an 8-week post-traumatic stress disorder treatment program. According to Plaintiff, his benefits manager urged him "[not to] take any more FMLA," and said he would "be disciplined" if he did so. Out of fear that he would be terminated for taking more FMLA leave, Plaintiff retired from his position.

Plaintiff filed suit in the U.S. District Court for the Northern District of Illinois alleging violations of Title VII, the ADEA, the ADA and the FMLA. Plaintiff asserted that his rights under the FMLA were violated when Defendants discouraged him from taking leave. The District Court granted Defendants' motion for summary judgment, concluding that Plaintiff's FMLA interference claim failed because he did not show an actual denial of FMLA benefits. Plaintiff appealed the ruling as to his FMLA claims only.

Seventh Circuit's Ruling

The Seventh Circuit reversed. The court held that a violation of the FMLA does not require actual denial of FMLA benefits and, as such, a reasonable jury could find that Defendants' interfered with Plaintiff's remaining FMLA leave hours by threatening to discipline him for using them. The court explained that the statutory text of § 2615(a)(1) of the FMLA undermines any requirement that an actual denial of leave must occur by explicitly prohibiting an employer from "interfering with, restraining, or denying" an employee's rights under the FMLA.

Significance

This decision clarifies that an employer can, in fact, run afoul of the FMLA even if it does not outright deny an employee's leave request. Rather, discouraging an employee from taking FMLA leave may be sufficient to constitute a violation under the FMLA.

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