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Sixth Circuit Eases Plaintiffs' ADA Burden; Proof of "Sole" Cause No Longer Required

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Susan Lewis was employed as a registered nurse at one of Humboldt Acquisition Corporation's retirement homes. Humboldt dismissed Lewis based on an outburst at work, in which she yelled, used profanity, and criticized her supervisors. Lewis filed an ADA claim against Humboldt claiming that the grounds for her dismissal were a pretext for disability discrimination, and that the real reason that Humboldt terminated her employment was a medical condition that made it difficult for her to walk and that occasionally required her to use a wheelchair.

At trial, Humboldt asked the trial judge to instruct the jury that Lewis could prevail only if she proved that Humboldt's decision to fire her was "sole[ly]" because of her disability. Lewis, on the other hand, asked the court to instruct the jury that she could prevail even if she only proved that her disability was *a motivating factor* in her discharge. The trial judge rejected Lewis' instruction, finding that Sixth Circuit precedent required that Lewis prove her disability was the "sole" cause. The jury entered a judgment in favor of Humboldt.

The "sole cause" standard for proving ADA claims first was established in the Sixth Circuit in 1995 in *Maddox v. Univ. of Tennessee*, 62 F.3d 843 (6th Cir. 1995). In *Maddox*, the Sixth Circuit applied the Rehabilitation

Act's "sole cause" standard to the plaintiff's ADA claim, reasoning that the ADA and the Rehabilitation Act have "parallel" goals of "seeking to eliminate disability-based discrimination."

On appeal, the *Lewis* court ruled that the Sixth Circuit's 17-year reliance on *Maddox* was wrong and out of sync with the causation standard applied to ADA claims by every other circuit court. Relying on the U.S. Supreme Court's decision in *Gross v. FBL Financial Servs.*, 557 U.S. 167 (2009), which cautioned against "apply[ing] rules applicable under one statute to a different statute," the Sixth Circuit reasoned that the Rehabilitation Act's "sole cause" standard does not apply to ADA claims because the text of the ADA does not provide that a plaintiff must prove that his or her disability was the "sole" cause or a "motivating factor," but rather contains a "because of" standard of causation.

In adopting the "but for" standard of causation based on this "because of" language, the *Lewis* decision will likely lower the bar for plaintiffs in ADA claims in the Sixth Circuit. It remains to be seen whether this new, lower standard will make it materially more difficult for employers to obtain summary judgment in ADA claims.

Additional Information

If you have any questions regarding this ruling, contact the Ogletree Deakins attorney with whom you normally work or the Client Services Department via email at clientservices@ogletreedeakins.com or by phone at 866-287-2576.

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