



Will the Pregnancy Discrimination Act Protect Me Even After I Have My Child?

September 22, 2011

Canales v. Schick Manufacturing, Inc, No. 3:09cv253, (D. Conn., 9/15/2011)

On September 15, 2011, Federal District Judge Mark R. Kravitz ruled that the Pregnancy Discrimination Act (“PDA”) protects “women affected by pregnancy, childbirth, or related medical conditions . . . not just to women who are pregnant.”

Generally, claims under the PDA that cannot be directly proven are analyzed under the three-step burden shifting framework established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973). Under *McDonnell*, a plaintiff must establish a prima facie case of pregnancy discrimination, by showing that,

- (1) *she is a member of a protected class;*
- (2) *she satisfactorily performed the duties required by the position;*
- (3) *she was discharged; and*
- (4) *[either] her position remained open and was ultimately filled by a non-pregnant employee . . . [or] the discharge occurred in circumstances giving rise to an inference of unlawful discrimination.*

In *Canales*, the decision to terminate the plaintiff occurred approximately one month after she gave birth and while she was still on maternity leave. The defendant argued that plaintiff did meet the first element of a prima facie case because although the plaintiff was on maternity leave, she was not pregnant at the time of her termination. Thus, she was not a member of a protected class, as required by the first element of the *McDonnell* test.

The court, however, disagreed and denied the defendant’s motion for summary judgment. “Certainly, women who are pregnant at or very near the time of the adverse employment action are members of the protected class, as are women who are on maternity leave or recently have returned to work from maternity leave when the employment action occurs.” (*quoting Helmes v. South Colonie Cent. Sch. Dist.*, 564 F. Supp. 2d 137, 147 (N.D.N.Y. 2008)).

So, to answer the question presented, as noted by the *Canales* Court, District Courts in the Second Circuit generally hold that – depending on the facts and circumstances of the particular case – employees are protected under the PDA even after their child is born.

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