

191 F.3d 460

Unpublished Disposition

NOTICE: THIS IS AN UNPUBLISHED OPINION.

(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI CTA9 Rule 36-3 for rules regarding the citation of unpublished opinions.)

United States Court of Appeals, Ninth Circuit.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff-Appellant,

v.

SISTERS OF PROVIDENCE HOSPITAL, Anchorage, Defendant-Appellee.

No. 98-35506. | D.C. No. CV-96-00358-HRH. | Argued and Submitted Aug. 5, 1999. | Decided Sept. 3, 1999.

Appeal from the United States District Court for the District of Alaska H. Russel Holland, Chief District Judge, Presiding.

Before HUG, Chief Judge, TROTT and TASHIMA, Circuit Judges.

Opinion

MEMORANDUM¹

*1 The Equal Employment Opportunity Commission (EEOC) brought a claim against Sisters of Providence Hospital (Providence) pursuant to Title I of the Americans with Disabilities Act (ADA) on behalf of Yuri Ivensky (Ivensky), who had been terminated from his employment as a Biomedical Technician I at Providence. The district court entered summary judgment for Providence. The EEOC timely appealed. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm essentially for the reasons expressed in the well reasoned order of the district court.

Ivensky suffered a stroke causing paralysis of his left arm, left hand and left leg. He was granted a six month leave of absence pursuant to Providence's Leave of Absence policy, which provides:

Failure to return to work on or before the date specified will be grounds for dismissal. Extensions may be granted for compelling reasons but must be approved in advance by the Department Manager and the Director of Personnel. Employees on a medical leave must provide the hospital with written approval from their physician before they will be allowed to return to work.

Ivensky did not request an extension, did not provide a written approval of his physician and did not return to work. His employment with Providence was terminated pursuant to its Leave of Absence policy at the end of the six-month period. The district court held:

While Ivensky may have wanted to come back to work, he was not ready to return to work.... Since Ivensky was not cleared to return to work and he did not specifically request accommodations, this court finds that Providence cannot be liable for failing to provide accommodations.

We affirm the entry of the summary judgment.

AFFIRMED.

Parallel Citations

1999 WL 691164 (C.A.9 (Alaska))

Footnotes

¹ This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided

E.E.O.C. v. Sisters of Providence Hospital, 191 F.3d 460 (1999)

by 9th Cir. R. 36-3.