
LEGAL UPDATE

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IOWA SUPREME COURT DECISION — DISABILITY AND AGE DISCRIMINATION CLAIMS

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

Darrell Jeffrey McClure v. E.I. du Pont de Nemours and Company d/b/a Corteva Agriscience

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Factual and Procedural Background. Darrell McClure worked at Corteva Agriscience for 36 years as a product technician. He suffered from two heart attacks, one in 2014 and one in 2019. After the first, he received a doctor's note stating that he should not work night shifts at Corteva, though he continued to be on call for night shifts for his other jobs, including as a city fire fighter. Multiple doctor's notes were requested by management before McClure's manager felt he had sufficient detail to understand McClure's work restrictions, but McClure was never required to work outside these restrictions. McClure claimed that his second heart attack caused him to experience migraines and occasional difficulty with work, but not with walking, seeing, hearing, speaking, or learning.

After three separate safety violations, McClure signed a written progressive discipline warning in 2017 acknowledging that further safety violations could result in termination. Between January and July 2020, McClure was involved in a safety incident with a semitrailer, a collision with another forklift, and numerous other forklift use violations. Almost two weeks after the last safety incident, he was informed that his employment with Corteva was being terminated due to safety concerns.

McClure filed suit under the Iowa Civil Rights Act (ICRA), asserting age discrimination, disability discrimination, retaliation, and hostile-work-environment discrimination claims. Corteva filed for and was granted summary judgment on all claims. On appeal, the Court of Appeals reversed the district court's summary judgment on the age and disability discrimination claims. Corteva sought further review from the Iowa Supreme Court, arguing that the age and disability discrimination claims should not survive summary judgment.

Issue. Whether the Court of Appeals correctly determined that McClure presented enough evidence on his disability and age discrimination claims for the claims to survive summary judgment.

Holding. The Court held that McClure had not presented sufficient evidence for his disability and age discrimination claims to survive summary judgment.

Analysis. A person is entitled to summary judgment when there is not a factual dispute and the moving party is entitled to a judgment as a matter of law. Iowa R. Civ. P. 1.981(3). Under the law at issue, ICRA, it is an unfair or discriminatory practice to discharge an employee due to age or disability. Iowa Code §216.6(1).

McDonnell Douglas, Corp. v. Green 411 U.S. 792 (1973) established a three-step, burden-shifting analysis to review employment discrimination claims. An employee making a claim of discrimination must establish a prima facie case by showing that the employee has a protected characteristic, is qualified for the position, and that the circumstances of the employment action raise an inference of discrimination. If an employee does so, the employer may refute the claim by proffering a legitimate reason for the employment action, which the employee must prove is pretextual.

McClure claimed that he was discriminated against due to the disability caused by his heart attacks, which affected his ability to work by limiting the number of night shifts he could perform. The ICRA applies to people who are substantially disabled, which means that a person is perceived as disabled or the person's disability "substantially limits one or more major life activities," including working. Iowa Admin. Code r. 161—8.26(1), (3) (2021). Whether a disability is substantial is determined by "the nature and severity of the impairment, its duration, and its expected permanent or long-term impact." *Bearshield v. John Morrell & Co.*, 570 N.W.2d 915, 919 (Iowa 1997). The Court stated that a limitation in ability to work means that a person's general employability has been impacted, not that the person is unable to work a specific job, and that McClure's inability to work back-to-back night shifts did not impact his general employability. McClure did not submit evidence of his managers' perceptions of his alleged disability, except for a statement from one who believed he was not disabled. Because McClure could not prove that he was disabled or perceived to be disabled, he failed to establish a prima facie case for disability discrimination, and the Court held that the district court correctly granted Corteva summary judgment on this claim.

The Court also determined that McClure failed to show that the reason given by Corteva for his firing was pretext for age discrimination. Pretext can be proven by "evidence that the employer treated similarly-situated employees in a disparate manner" or by evidence of a discriminatory atmosphere in the workplace. *Feesback v. Swift Pork Co.*, 988 N.W.2d 340, 350 (Iowa 2023) (quoting *Beasley v. Warren Unilube, Inc.*, 933 F.3d 932, 938 (8th Cir. 2019)). When determining that a reason is pretextual, the court determines not whether the stated reason for the employment action exists, but whether the employer had a good faith belief that the circumstances existed. *Id.* at 349. McClure's involvement in the 2020 safety incidents was undisputed, and McClure did not provide evidence that the incidents did not create an honest belief in Corteva that he was a safety risk. McClure also did not submit evidence to demonstrate that the younger employees involved in the safety incidents who were not fired had similar safety records to McClure or that there was a discriminatory atmosphere created by disproportionate discipline or termination of older employees. The Court concluded that McClure's lack of evidence to establish that Corteva's proffered reason for terminating McClure was pretextual made summary judgment on the age discrimination claim proper.

Concurrence. In Justice McDonald's concurring opinion, he argued that the *McDonnell Douglas* burden-shifting framework should not be used at summary judgment since it is incompatible with Iowa Rule of Civil Procedure 1.981(3), which provides that summary judgment is only appropriate when there is no genuine issue of material fact.

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