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EMPLOYER LAW BLOG

Seventh Circuit: Requested Schedule Change Denial Not An "Adverse Action" under Antidiscrimination Laws

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The case—*Smith v. Chief Judge of the Circuit Court of Cook County*—helps clarify the contours of what it means to suffer an "adverse action" under antidiscrimination law. In the case, the Seventh Circuit concluded that denial of a requested schedule change alone does not qualify as an "adverse action" under antidiscrimination laws like Title VII.

In *Smith*, the plaintiff—an African American—worked as a juvenile probation officer for the defendant for 15 years until 2018. During this time, he also served as a union leader for 6 years and, in that role, assisted others in raising charges of discrimination.

In mid-2016, the plaintiff requested a change to his work schedule from five, eight-hour days to four, ten-hour days, to enable him to take Spanish classes on Fridays. He alleged taking these classes would lead to other work opportunities available to bilingual employees and thus potential raises. The applicable collective bargaining agreement allowed for schedule changes, but only if practicable and agreed upon by all parties.

The defendant eventually denied the request. The plaintiff responded by filing a charge of discrimination and lawsuit based on the denial. In his filings, he claimed the denial resulted from his role in past opposition to workplace discrimination. He later resigned.

The District Court dismissed his claims because it found the requested schedule change denial had not worsened his employment conditions. The plaintiff appealed.

The Seventh Circuit agreed with the District Court. It began by noting antidiscrimination laws require a plaintiff to prove he "suffered a 'materially adverse action'" that "materially alter[ed] the terms of conditions of employment."

The Seventh Circuit concluded the schedule change denial did not meet this standard. It emphasized three factors in reaching that conclusion: (1) the schedule change denial did not affect his pay or benefits; (2) the plaintiff did not prove the Spanish class would yield a raise; and (3) the plaintiff did not prove the Friday Spanish classes were the only way he could readily learn Spanish.

In short, the case helps drive home the point that speculation about potential impact on pay or benefits will not suffice to substantiate a claim of an "adverse action" under antidiscrimination laws. While this case does not establish any new law or legal principles, it serves as another helpful (and oft-needed) reminder that not every workplace grievance is an actionable "Adverse Action."