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Coleman v. Maryland Court of Appeals

To Be Argued Before the U.S. Supreme Court on January 11, 2012

How does the Family and Medical Leave Act (FMLA) work? What coverage do state employees have?

The FMLA is a federal law that gives eligible employees who work for covered employers the right to take 12 weeks unpaid leave to care for a newborn or newly adopted child, a seriously ill family member (spouse, child or parent); or to recover from a worker's own serious illness. Covered employers have 50 or more employees within a 75 mile radius. An employee is eligible for FMLA leave if he/she has been employed for at least one year and 1,250 hours within the last 12 months by his or her employer. Congress specified that state employees, like their counterparts in the private sector, would be entitled to leave under the FMLA. In 2003, in *Nevada Department of Human Resources v. Hibbs,* the U.S. Supreme Court established unequivocally that eligible state employees (those who have worked for 1,250 hours within the last 12 months for the state employer) are entitled to take leave to care for a newborn or newly adopted child or a seriously ill family member. *Coleman* will determine whether state employees are likewise entitled to self-care leave.

What happened with Mr. Coleman? Were there extenuating circumstances associated with his firing, or does the state claim that there were?

Mr. Coleman worked for the Maryland court system. He suffered from hypertension and diabetes and was fired after he requested medical leave to treat his condition. His request for time off was prompted by his doctor, who prescribed two weeks of bed rest in response to Mr. Coleman's deteriorating health. Despite knowledge of the doctor's orders, and Mr. Coleman's six years of positive work reviews and promotions, Mr. Coleman's supervisor refused to grant Mr. Coleman's request for medical leave and instead fired and subsequently replaced him. Any "extenuating circumstances" would be irrelevant to the question that the Supreme Court will decide, which is whether state employees are entitled to self-care medical leave under the FMLA.

What is the exact question the Supreme Court will decide here?

The Court will determine whether state workers can effectively exercise their rights to take medical leave from work when their own health requires. More specifically, the Court will assess whether Congress validly abrogated the Eleventh Amendment rights enjoyed by states when it passed the FMLA's self-care provision and enabled state workers to sue their employers for monetary damages. In some cases, the Eleventh Amendment immunizes states from suit for monetary damages. The immunity enjoyed by states is not, however,

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limitless. The Supreme Court has determined that the equal protection rights guaranteed by the Fourteenth Amendment give Congress the ability to abrogate state immunity. Thus, when Congress passes a law intended to address discrimination against a protected class of people (like women), Congress may provide for a cause of action against a state in federal courts.

What is at stake in this case for state employees, and for private sector employees? What would a loss for your side mean and how many people would it affect?

While the case will have very little impact on private sector employees, the result is of great import for state employees. More than 5.3 million employees work for state governments, and many suffer from or will suffer from serious illnesses or injuries. This case puts at stake the right of these state workers to take time to care for their own serious medical needs, including pregnancy and childbirth. It would mean that those state workers would no longer be guaranteed the right to take time off when their own health fails. Just as the Court determined that states are not immune from claims for denial of family-care leave under the FMLA, we expect the Court to determine that states are not immune from claims for denial of self-care leave.

Does it surprise you that a legal entity (the Maryland Court System) would challenge the law in this way? Or that a state with a Democratic administration is challenging the FMLA?

We consider this to be a clear, settled law and it is disappointing to see it challenged by any state. The Maryland Court System should have allowed Mr. Coleman the leave to which he was entitled, and it must be held accountable for not doing so.

How many people and how many state employees have benefitted from FMLA so far? I thought a lot of states had better leave protections in place than the federal law. Is that right and is Maryland one of those states?

Since its enactment, the FMLA has been used more than 100 million times. There is no hard and fast data about how many state employees have benefitted from the FMLA so far but, by our estimates, roughly half a million public state employees take self-care leave each year. Many states do have better leave protections in place than the federal law. The federal law provides a floor, not a ceiling, and states are entitled, and encouraged, to provide further rights for workers. That said, the FMLA provides an important base below which states cannot fall when establishing the rights of workers to take leave.

The state of Maryland grants employees in the state personnel management system the right to sick leave with pay. Sick leave can be used for an employee's own illness. (Maryland Code, State Personnel and Pensions, § 9-501). Nonetheless, employees must accumulate that paid leave over time and the number of sick leave days that may be accumulated is capped at 15 per year. The state does, however, grant state employees the right to a maximum of six months leave, provided the appointing authority approves the leave. That

employee is required to provide medical documentation that he or she will be able to return to his or her full range of duties within six months (Code of Maryland Regulations §17.04.11.24).

Has the Supreme Court considered the FMLA in the past and, if so, has it narrowed or upheld its protections? What was the liberal/conservative composition of the Court at that time (or at those times)?

Yes. The Court considered the FMLA in the landmark case *Nevada Department of Human Resources v. Hibbs*. In that 2003 case, the Court upheld the FMLA's protections, determining that state workers can enforce their rights to family leave under the FMLA. That decision was authored by conservative Chief Justice Rehnquist. At the time, the Court was composed of five justices who tended to issue more conservative rulings (Rehnquist, Scalia, Kennedy, Thomas, O'Connor) and four more liberal justices (Stevens, Souter, Ginsburg, Breyer). That is similar to the current composition of the Court. We expect that this Court will follow the precedent established in *Hibbs*.

What do you anticipate will happen? Are you optimistic about this case? Or are you concerned about the increasingly conservative majority will narrow FMLA protections?

We are optimistic that the Court will follow its precedent and apply the same analysis that was applied in Chief Justice Rehnquist's decision in *Hibbs*. Clearly, the self-care and family-care provisions are interrelated, and there is no good reason to treat them differently. Every justice should recognize that, regardless of his/her judicial philosophy.