

Bond Case Briefs

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ADA - TEXAS

Van Velzor v. City of Burleson

United States District Court, N.D. Texas, Dallas Division - July 12, 2013 - Slip Copy - 2013 WL 3579339

Disability discrimination case arising from alleged discriminatory practices of the City of Burleson, Texas, including refusing requests to accommodate disabilities and maintaining a practice of not enforcing statutes intended to protect disabled individuals.

Plaintiff, on several occasions, requested that police department enforce Texas transportation code and the ADA, which they declined to do to Plaintiff's satisfaction.

The Plaintiff alleged that, by refusing to consider his requests for accommodation, that is, refusing to enforce or change policies which will increase likelihood of enforcement of parking regulations intended to protect disabled individuals, the defendant had violated the ADA and the Rehabilitation Act.

The court noted that a core element of a claim for reasonable modification, whether under Title I, II, or III, is that the plaintiff has been denied meaningful access to public places, benefits, or services, i.e., the kind of access that would be necessary to avoid discrimination on the basis of disability.

In this case, the Plaintiff had not, in his complaint, provided the court with sufficient factual allegations to conclude that he was denied meaningful access to the "service" or "benefit that the grantee offers," i.e., police enforcement of laws, considered generally (not just police enforcement of traffic laws).

"The court wishes to clarify that it is not concluding that a qualified individual with a disability could never make a proper 'reasonable modification' claim with respect to police enforcement. There may be instances where the lack of meaningful access to police services is so extreme that a court could find a reasonable modification necessary to prevent discrimination. For example, if a police department systematically refused to respond to calls for service at an institution populated with disabled individuals, then a court might be able to find that a reasonable modification to department practice or policy would be required to prevent discrimination. But here, the non-enforcement of two statutory provisions does not rise to this level, and a conclusion from this court that modification is required to provide greater access to police enforcement would intrude too greatly on the department's enforcement discretion."

The court concluded that the Plaintiff's allegations of lack of enforcement of one provision of the Texas Transportation Code and one provision of the Texas Business & Commercial Code do not support an inference that the plaintiff has been denied "meaningful access" to police enforcement of all the laws under the Burleson police department's jurisdiction.