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Cutrer v. Tarrant County Local Workforce Development Board

United States Court of Appeals, Fifth Circuit - November 22, 2019 - F.3d - 2019 WL 6242860 - 2019 A.D. Cases 451, 680

Employee of county workforce development board filed suit against her employer claiming disability discrimination, retaliation, and post-employment retaliation under the Americans with Disabilities Act (ADA), and use of her personal information in violation of the Fair Credit Reporting Act (FCRA).

The United States District Court for the Northern District of Texas dismissed on basis of employer's sovereign immunity. Employee appealed.

The Court of Appeals held that:

- Employee waived claims not briefed on appeal;
- County and cities were not the State and therefore could not confer Eleventh Amendment immunity on county workforce development board; and
- There was no evidence that State of Texas was source of board's funding, as could support finding that board was arm of state and thus entitled to Eleventh Amendment immunity.

County and cities were not the State and therefore could not confer Eleventh Amendment immunity on county workforce development board which they created to oversee delivery of workforce training and services; county and cities were territorially part of state but were merely political subdivisions.

There was no evidence that the State of Texas was the source of funding for a county workforce development board created in cooperation between a county and two cities to oversee delivery of workforce training and services, as could entitle it to Eleventh Amendment immunity to employee's claims for discrimination, in violation of ADA, and violation of the Fair Credit Reporting Act (FCRA), as an arm of the state.