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Court revives blind worker's lawsuit against Montgomery

4th Circuit says jury should have chance to weigh claims

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Montgomery County will have to defend at trial its decision to deny a blind woman a job at its call center after a U.S. appeals court revived her claim that the county violated federal law by not reasonably accommodating her disability.

The 4th U.S. Circuit Court of Appeals said a federal judge should not have dismissed Yasmin Reyazuddin's claim that the county's refusal to place her at the center violated the Rehabilitation Act, which prohibits disability-based discrimination against public-sector employees.

Montgomery County denies the alleged unlawful discrimination, saying it lawfully declined to assign Reyazuddin to the center because the cost of accommodating her disability would have been unduly burdensome for the county. The county said it assigned Reyazuddin to other duties at no reduction in pay.

Wrong conclusion

The 4th Circuit ruled Monday that Chief U.S. District Judge Deborah K. Chasanow erroneously granted summary judgment for the county after agreeing it would be too expensive to retrofit the center for visually impaired workers, as the job requires employees to read bus-route maps. Chasanow, who sits in the federal courthouse in Greenbelt, wrongly concluded before trial that the county reasonably accommo-

dated Reyazuddin with its reassignments, the 4th Circuit added.

Sending the case for trial, the court said Chasanow focused on the county's estimated cost of the upgrade — up to \$400,000 — and not enough on options Reyazuddin presented, including the use of a standard interactivity phone system she said was in wide circulation, as effective as the county's high-interactivity system and accessible to the visually impaired.

"The record ... is silent about the productivity of employees operating in standard-interactivity mode, and so the county is left to speculate that employees operating without the bells and whistles of the high-interactivity mode and configuration must be less productive," Judge Albert Diaz wrote in the 4th Circuit's published decision.

Up to a jury

The 4th Circuit also said a jury, not a judge, should decide if a \$400,000 accommodation would be too burdensome for a county with a \$3.7 billion annual budget.

"In effect, the district court reduced a multi-factor analysis to a single factor — cost — that the court believed was simply too much for the county to bear," Diaz wrote. "But while cost is important, it cannot be viewed in isolation. Rather, it is the relative cost, along with other factors, that matters."

The 4th Circuit also said reassigning an employee to part-time jobs is not a reasonable accommodation when the alternative was full-time work.

A reasonable accommodation "should provide a meaningful equal employment opportunity," Diaz wrote, quoting from a 1990 House of Representatives report

on the Americans with Disabilities Act. "Meaningful equal opportunity means an opportunity to attain the same level of performance as is available to nondisabled employees having similar skills and abilities."

'Make-work tasks'

In Reyazuddin's case, Montgomery County "cobbled together an assortment of 'make-work tasks' that did not amount to full-time employment," Diaz added.

Joseph B. Espo, an attorney for Reyazuddin, called the decision a victory for all workers with disabilities.

"The real significance of the case is found in the court's holding that when an employer provides an accommodation through a reassignment it has to be a meaningful job, not just a make-work job where you are shunted off into a corner," said Espo, of Brown, Goldstein & Levy LLP in Baltimore.

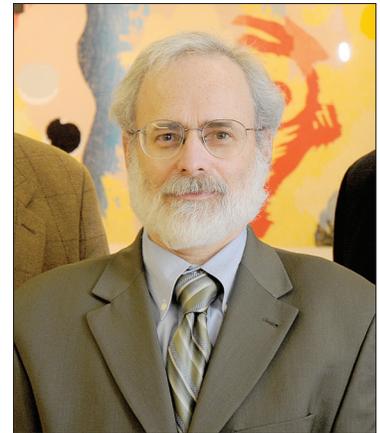
Montgomery County spokesman Patrick Lacefield stated via email Tuesday that "we are confident that at the end of the day the county's perspective will prevail."

From 1,500 to one

The county created its call center in 2008 to consolidate its 1,500 telephone numbers scattered among 38 offices into one telephone number, 311, that residents can call for assistance.

Reyazuddin, who then answered the county's Department of Health and Human Services' information line, applied for transfer to the center in 2009 but was rebuffed.

In February 2010, the county unplugged the information line and referred callers to the center. Reyazuddin was transferred



FILE PHOTO

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to part-time work handling calls regarding the Manna Food Center, a private group that provides food to low-income residents, and performing intake work at the department's aging and disability unit.

She sued the county in April 2011.

Chief Judge William B. Traxler Jr. and Judge Stephanie D. Thacker joined Diaz's opinion.

The case is *Reyazuddin v. Montgomery County, Md.*, No. 14-1299.