Peggy Young and the Fight for Workplace Equality for Pregnant Workers

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Newly pregnant United Parcel Service (UPS) worker Peggy Young made a simple request of her employer. She sought to protect her health and the health of her pregnancy by complying with her medical provider's recommendation that she not lift boxes more than 20 pounds. Her employer denied the request. Young challenged her employer's action in court, alleging that denying her a reasonable accommodation, while providing accommodations to other workers, violated the Pregnancy Discrimination Act (PDA).

Unfortunately, Young lost her case in the lower courts. The district court found that UPS's policy of accommodating other workers, including workers with disabilities and workers injured on the job, was a "pregnancy-blind" rule – or a rule that does not classify workers based on pregnancy – that did not violate the PDA. The U.S. Court of Appeals for the Fourth Circuit affirmed. The U.S. Supreme Court will hear the case during its 2014-2015 term.

Background

Peggy Young was a part-time driver for UPS when she became pregnant in 2006. Although she mostly dealt with light envelopes and packages, Young's job description called for her to lift up to 70 pounds. Young's medical provider recommended that she not lift more than 20 pounds during her pregnancy, so Young asked UPS for a "light duty" assignment. UPS denied her request, despite the fact that it had a policy of modifying job assignments or responsibilities for other employees who were temporarily unable to fulfill their job responsibilities.

UPS's decision to deny Young access to light duty forced her to take unpaid leave and to go without her employer-provided medical coverage at a time when she badly needed it. Young had to use less desirable medical care that was four times as far from her home, and she lost her right to disability insurance benefits related to her pregnancy and childbirth. As Young described it: "What started as a very happy pregnancy became one of the most stressful times of my life."[1]

UPS justified its decision by pointing to its "pregnancy-blind" light duty policy.[2] The policy provided that only certain employees are entitled to light duty or other alternative assignments: those who are injured on the job, have a qualifying disability under the Americans with Disabilities Act (ADA), or are legally prohibited from driving for various reasons. UPS determined that, because Young did not fall within any of these three categories, she was not entitled to any accommodation.

The district court ruled in favor of UPS, and the Fourth Circuit affirmed. Both courts reasoned that UPS had not violated the PDA because the company's policy was "pregnancy-blind."[3]

Young appealed to the U.S. Supreme Court, arguing that the lower courts misunderstood the PDA's directive that pregnant employees be treated "the same … as other persons not so affected but similar in their ability to work," and that employers cannot establish policies that deny accommodations to pregnant women when similar accommodations are available to other workers who are "similar in their ability or inability to work."[4] The Court will hear Young's case during its 2014-2015 term.

What's at Stake in *Young v. UPS*

The question before the Supreme Court is whether, and in what circumstances, an employer that accommodates non-pregnant employees with work limitations must accommodate pregnant employees who are "similar in their ability or inability to work."[5]

A Supreme Court decision in favor of Peggy Young would clarify that pregnant women with temporary physical limitations must be treated the same as other workers with temporary physical limitations. Pregnant women would be granted reasonable accommodations if other workers with temporary physical limitations are accommodated. This is the best reading of the PDA and the ADA, as amended, and the best policy outcome for America's women and families.

A Supreme Court decision in favor of UPS would deal a critical blow to the Pregnancy Discrimination Act's effectiveness, enabling employers to evade the law's requirements and leaving women in the precarious position of jeopardizing their health or losing wages and benefits at a time when economic stability is most critical. Such a decision would also make ever-more urgent congressional action on the Pregnant Workers Fairness Act, which clarifies that women with pregnancy-related physical limitations must receive reasonable workplace accommodations similar to those provided to other workers with temporary physical limitations.

What *Young* Means for Workers

Workplace discrimination against pregnant women continues to be a pervasive problem. Research indicates that pregnant women are judged more harshly or negatively than other workers by those who make decisions about hiring and promotions.[6] And women report that they experience negative reactions in the workplace when they become pregnant.[7] A decision against Young would further entrench this discrimination by making it more difficult for pregnant women to participate fully and equally in the workplace.

Congress intended for the Pregnancy Discrimination Act to clarify that pregnancy is compatible with work and to help ensure that pregnant women are not forced to choose between their jobs and economic stability and their health. When employers refuse to accommodate a woman's pregnancy-related limitations, she may have to do exactly that. If a

woman continues to work without an accommodation, she could put her health and the health of her pregnancy at risk.

If she puts her health first, she may have to leave her job and sacrifice her ability to provide for herself and her family. This is an impossible choice that no worker should be forced to make.

Having a baby should not mean being treated less favorably than colleagues, losing a job or much-needed financial stability, or jeopardizing one's health. It is time to make pregnancy discrimination in all its forms a thing of the past.

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1 National Women's Law Center & A Better Balance. (2013). *It Shouldn't Be a Heavy Lift: Fair Treatment for Pregnant Workers* (p. 15). Retrieved 16 July 2014, from http://www.nwlc.org/sites/default/files/pdfs/pregnant_workers.pdf

2 Young v. United Parcel Serv., Inc., 707 F.3d 437, 446 (4th Cir. 2013).

3 Ibid.

4 Petition for Writ of Certiorari at 9-16, Young v. United Parcel Serv., Inc., No. 12-1226 (April 8, 2013).

5 Ibid., at i.

6 *See, e.g.*, Benard, S., Paik, I., & Correll S.J. (2008, June). Cognitive Bias and the Motherhood Penalty (pp. 1370-71). *Hastings Law Journal, 59*, 1359 (citing a series of studies documenting attitudes toward pregnant employees and the results of a study in which researchers interviewed working mothers about reactions to their pregnancy from co-workers).

7 Ibid.