

United States Court of Appeals

FOR THE EIGHTH CIRCUIT

No. 96-2419

Gregory Kennedy,

Appellant,

v.

Office of Administration,
Division of Design &
Construction; George Riedel;
Richard Hansen; Robert W.
Whitehead, *

Appellees.

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* Appeal from the United States
* District Court for the
* Western District of Missouri
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* [UNPUBLISHED]
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Submitted: January 17, 1997

Filed: May 5, 1997

Before RICHARD S. ARNOLD, Chief Judge, ROSS and BEAM, Circuit Judges.

PER CURIAM.

Gregory Kennedy, who had a history of back problems dating back to 1987, began working as a Custodial Worker I for the State of Missouri Office of Administration in 1989. In 1991 he injured his back while on the job, and required surgery. When he returned to work his doctor restricted him to lifting under twenty-five pounds and limited bending. After about a month, his doctor released him from these restrictions. Kennedy reported for work but still asserted that there were tasks he could not do. He sought accommodation by doing other employees' light work and,

presumably, shifting the heavier work to them. After his request was refused, Kennedy asked for a leave of absence, claiming that his personal physician had told him to abstain from all work pending additional testing. This request was also denied. Kennedy then refused to report to work and was terminated.

Kennedy sued under the Americans with Disabilities Act,¹ 42 U.S.C. §§ 12101 et seq. The district court² found that Kennedy had not established his substantial limitation in a major life activity as required by the ADA and granted summary judgment to the Missouri Office of Administration. In reaching this conclusion, the district court relied on the testimony of Kennedy and his doctors along with an analysis of Kennedy's current work detailing cars. A careful review of the record leads us to conclude that the district court was correct in all respects. We therefore affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.

¹Kennedy also pled numerous state claims that were dismissed and were not appealed.

²The Honorable D. Brook Bartlett, United States District Judge for the Western District of Missouri.