

Marilyn Bland, Student Advocate
Christopher Hill & Laurie Morin, Faculty Supervisors

Case Spotlight: Definition of Disability

Case Name: [Baker v. Roman Catholic Archdiocese of San Diego](#)
Citation: *Baker v. Roman Catholic Archdiocese of San Diego*, No. 14-00800, 725 F. App'x. 531 (9th Cir. 2018) (unpublished).
Date of Decision: February 27, 2018
Court: United States Court of Appeals, Ninth Circuit
Judge(s): Hon. Marsha Berzon, Hon. Jay Bybee, & Hon. John Woodcock (sitting by designation) (author)
Alleged Disability: Post-concussion headaches and dizziness
Prong(s) at issue: Regarded As

Background:

Michele Baker (“Baker”) worked for the Roman Catholic Archdiocese of San Diego when she suffered a concussion in August 2012. *Baker*, 725 F. App'x at 532. Principal Michael Deely, Baker’s supervisor, knew that Baker had a concussion based on an email she sent him and weekly in-person conversations that Deely had with Baker about her headaches and dizziness. *Id.* Deely articulated his concern for Baker immediately after the concussion and would ask her about it when he saw her. *Id.* Baker was terminated five months later. *Baker v. Roman Catholic Archdiocese of San Diego*, 197 F. Supp. 3d 1210, 1214 (S.D.N.Y. 2016).

Baker sued alleging that she was discriminated against in violation of Title I of the Americans with Disabilities (“ADA”), as amended by the ADA Amendments Act (“ADAAA”). The Roman Catholic Bishop of San Diego (“RCBSD”) filed a motion for summary judgment claiming that Baker did not have a disability.¹ *Baker*, 725 F. App'x at 532. The district court concluded, *inter alia*, that Baker did not have a disability because “[t]here [wa]s simply no evidence that RCBSD, or even Plaintiff’s treating physicians believed, or even considered, that Plaintiff was disabled and could not engage in major life activities.” *Id.*

¹ A motion for summary judgment (“MSJ”) is a request for the court, prior to trial, to rule that the other party has no case because there are no disputes regarding material facts. “Material fact” refers to any fact(s) that could allow a judge or jury to decide against the party requesting the MSJ.

Holding:

Reversing the district court, the Circuit Court held that there were disputes of material fact as to whether Baker was an individual with a disability under the “regarded as” prong. *Id.* The Circuit Court reasoned that Deely’s expression of concern about Baker’s health immediately after the concussion and awareness of her continued headaches and dizziness could be interpreted as demonstrating that he “regarded” Baker as having a disability. *Id.* The Circuit Court remanded the case to the district court for further proceedings. *Id.* at 533.

Analysis Regarding “Regarded As” (Prong 3):

Under the ADA, as amended by the ADAAA, an individual is “regarded as” having a disability if the person can show that they experienced adverse treatment based on “an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.” 42 U.S.C. § 12102(3)(A). Employers do not need to regard an employee as being substantially limited in any major life activity for the employee to be protected under the “regarded as” prong. *Baker*, 725 F. App’x. at 532.

Here, Deely knew Baker suffered a concussion because she notified him via email. *Id.* Likewise, he knew Baker continued to have dizziness and headaches because she informed him at least every two weeks of her symptoms. *Id.* Additionally, Deely had expressed concern about Baker’s health immediately after the concussion and inquired about her health from time to time. *Id.*

The Circuit Court reasoned that a jury could interpret Deely’s continued inquiry about Baker’s headaches and dizziness as demonstrating that he “regarded” her as having post-concussion headaches and dizziness throughout the relevant time period. *Id.* Accordingly, the Circuit Court correctly reversed the district court decision and remanded the case to determine “whether RCBSD regarded Baker as disabled.” *Id.*