

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20701

CRISTELA RANGEL,

Plaintiff-Appellant,

versus

THE SALVATION ARMY,

Defendant-Appellee.

Appeal from the United States District Court for
the Southern District of Texas
(USDC No. H-98-CV-530)

September 8, 2000

Before REAVLEY, BENAVIDES and DENNIS, Circuit Judges.

PER CURIAM:*

The judgment of the district court is affirmed for the following reason.

Plaintiff Rangel's claim is that the defendant denied her a right provided under the Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.* Defendant allowed six months

*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

leave, more than the 12 weeks required by the Act. Defendant therefore claims a violation of her right under § 2614 to be restored to her former job on return from her leave. Her burden was at least to raise an issue that she was able to do her job within the 12 weeks after her injury and that defendant denied her that right.

The evidence conclusively shows that defendant had no reason to think she was able to do her job or that, in fact, she could do so, at any time before she was terminated. She was told that she would have to obtain a release to full duty before she could be reinstated, and that was never obtained by the time six months had passed. She testified that she continued to have back problems. Light duty limits on her work were inconsistent with her job where, by lifting, she had suffered two prior injuries.

AFFIRMED.