

v.
State of Nebraska,

Appellant.

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Submitted: April 15, 1998

Filed: August 9, 1999

Before WOLLMAN, Chief Judge, and BEAM and MORRIS SHEPPARD ARNOLD,
Circuit Judges.

MORRIS SHEPPARD ARNOLD, Circuit Judge.

The Nebraska Equal Opportunity Commission (NEOC) fired two of its case investigators, Denise DeBose and James McCullough, because, the NEOC says, they repeatedly and grossly failed to meet their case quotas and performed their work in an untimely fashion. Both Ms. DeBose and Mr. McCullough claim to suffer from clinical depression, and they maintain that their unsatisfactory work performance was due to their disability. They therefore filed suit against the NEOC, alleging that it had violated the Americans with Disabilities Act (ADA), *see* 42 U.S.C. §§ 12101-12213, in terminating them.

A jury awarded a total of more than \$175,000 in back wages and compensatory damages to the plaintiffs and nearly \$100,000 in front pay to Mr. McCullough, and the district court ordered that Ms. DeBose be reinstated to her job. The state of Nebraska argues that the district court erred in holding that the state was not immune from suit under the Eleventh Amendment of the U.S. Constitution and in denying the state's motions for judgment as a matter of law.

In *Alsbrook v. City of Maumelle*, No. 97-1825 (8th Cir. 1999) (*en banc*), slip op. at 18, we held that Congress lacked the power to abrogate a state's eleventh amendment immunity relative to Title II of the Americans with Disabilities Act, *see* 42 U.S.C. §§ 12131-12165. We think that the principles established in that case apply with equal vigor to Title I of that act, *see* 42 U.S.C. §§ 12111-12117. We therefore reverse the judgment of the district court and remand the case for the entry of judgment in favor of the defendant.

A true copy.

Attest:

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