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How Has the Supreme Court affected the Americans with Disabilities Act? You be the Judge

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How Has the Supreme Court Affected the Americans with Disabilities Act? You Be the Judge...

When the Americans with Disabilities Act (ADA) was passed by Congress and signed into law by President Bush in 1990, it was hailed as the proclamation of emancipation for Americans with disabilities who were considered unemployable. The ADA defines a “disability as a physical or mental impairment that substantially limits one or more... major life activities,” 42 U.S.C.S. 12102 (2)(A).

Many within the disability community thought the ADA would lead to dramatic changes in employment. But with the 10th anniversary of the ADA approaching, a recent survey conducted by Louis Harris & Associates found that employment statistics remain grim. The pollster found that among people with disabilities who are of working age, 71% were unemployed in 1998, five percentage points higher than in 1986. Of those not working, three out of four said they would like to be employed (The Boston Sunday Globe, July 4, 1999).

To add to the plight of the disability community, the U.S. Supreme Court (Court) ended its 1998-1999 term with a deeply disturbing vote. By a 7-2 margin in three separate decisions, the Court narrowed the scope of the ADA.

The pivotal case involved twin sisters who applied for positions as global pilots with United Airlines and were rejected because of their nearsightedness. This judgement was reversed even though they have 20/20 vision with corrective lenses and are currently regional pilots. The two severely myopic twin sisters have uncorrected visual acuity of 20/200 or worse, but with corrective measures, both function identically to individuals without similar impairments. A companion case involved a truck driver who, despite a good record, was fired because he was nearly blind in one eye. This condition rendered him unfit under federal safety standards. The last case involved a UPS driver who was fired because of high blood pressure that was correctable with medication (All Things Considered, National Public Radio, June 22, 1999).

Writing the court majority, Justice O'Connor declared that individuals with physical impairments that can be easily corrected are not “disabled” and, therefore, are not entitled to protection under the ADA—even though the disabilities cost them their jobs. A “disability” exists only where an impairment “substantially limits” a major life activity, not where it “might,” “could,” or “would” be substantially limiting (Supreme Court of the United States, Sutton et al. v. United Air Lines, Inc., No. 97-1943, June 11, 1999).

These results were profoundly disappointing to the disability rights community. The Clinton administration contended that Congress intended the ADA to have a broad reach and that the individuals in these three cases should have been considered as having disabilities under the law. In addition, Professor Chai Feldblum of Georgetown University responded to the Court's decisions by stating that, “Today we are told by the Supreme Court that if you have managed to overcome your disability in some way, you suddenly do not have a disability anymore. That is devastating.” Within the business community, though, the rulings brought a big sigh of relief. Steve Bokat, counsel for the U.S. Chamber of Commerce, said, “The decisions would spare employers from frivolous lawsuits that had been growing exponentially in number. “The Court's rulings,” he noted, “would permit employers to make hiring and firing decisions based on physical criteria without fear of being sued” (Morning Edition, National Public Radio, June 23, 1999).

Congress' intent was that the ADA would protect 43 million Americans with disabilities. Justice O’Connor notes that if the Court defined disabled to mean a person's condition without corrective measures, perhaps 160 million Americans would be considered persons with disabilities today. This would mean that the majority of the working population would have an unlimited potential for lawsuits.

Civil Rights laws are supposed to be universal. As Ellen Goodman recently notes on the OP-ED page of The Boston Sunday Globe (June 27, 1999) “... Let us remember that the law against gender discrimination also protects men. And the law against racial discrimination is also used by whites.” The ADA was written for all of us in the work place, a place where each individual should be judged on his or her ability to do the job. But with the Supreme Court's current interpretation of the ADA, can the argument be made that we are all just temps? Moreover, is it time now for Congress to revisit the definition of disability within the context of these recent Supreme Court decisions?

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