Congress Overturns USSC ADA Jurisprudence

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The Americans with Disabilities Act (ADA) is one of the more recent civil rights laws passed by Congress and has served to protect the interests of disabled Americans with respect to employment, transportation, and public accommodations. As with any major statute, the ADA has been interpreted a variety of ways and several major Supreme Court decisions have been issued determining the proper scope of the statutes. Recently Congress demonstrated its disagreement with the Supreme Court by passing the ADA Amendments Act of 2008 (“Act”) in order to revive more extensive definitions of disability than those used by the Court. Whether this will increase protections for the disabled or actually make things worse remains to be seen.

*Sutton v. United Air Lines, Inc.*

The first Supreme Court case that Congress took issue with was *Sutton v. United Air Lines, Inc.* In the *Sutton* case, the plaintiffs were disqualified from interviewing for jobs as global air pilots based on their vision without glasses or contacts; each plaintiff’s eyesight was worse than 20/200 without correction but with glasses or contacts was 20/20 or better.

The sisters claimed that they had been discriminated against because of a disability (bad eyesight) and/or because they were regarded as having such a disability, both of which are proper claims under the ADA. The Supreme Court focused on the larger legal issue of whether a disability determination must be made without respect to mitigating measures – i.e. should the women’s disability be determined based on their uncorrected eyesight or their eyesight with their glasses on. The Court noted that no federal agency had the authority to issue regulations implementing the definitions sections of the ADA, but that the Equal Employment Opportunity Commission (EEOC) had done so anyway. Both the EEOC and the Department of Justice had issued guidelines stating that a disability determination must be made on a case-by-case basis without considering possible mitigation. Under these regulations, the women would likely have been seen as disabled due to their poor uncorrected eyesight.

The Court, however, held that mitigation must be considered. It relied largely on the notion that to ignore mitigation would require speculation as to what the extent of the person’s condition would be if she were not using mitigating devices like medications or glasses. Certainly in the cases of glasses this would be easy to test, but with respect to some medications and/or more permanent mitigating devices, such as knee replacement.

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3 *Id.* at 476-481.
4 *Id.* at 481-482.
hardware, there would be guesswork required, which the Supreme Court did not believe Congress wanted. The women were therefore found not disabled, since their eyesight was fine with their glasses on.

The Court additionally held that the women did not meet their burden with respect to the claim that they were regarding as having a disability. To show that they were eligible for ADA protection, the women would have had to have shown they were viewed as being substantially limited in a major life activity that would preclude them from performing a broad range of jobs. Since the Court found that United merely felt the women were not qualified for a particular, narrow job, this did not suffice.\(^5\) In the Supreme Court’s view, this was similar to a person not being seen as physically qualified to be a basketball player as opposed to not being physically able because of a disability to perform any number of desk-bound jobs.

*Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*

Congress also worked in the Act to eliminate the impact of the Court’s opinion in the *Toyota* case. In this case, the plaintiff alleged that Toyota failed to provide adequate reasonable accommodations for her disability as required by the ADA. She suffered from carpal tunnel syndrome and other muscular-tendon conditions that limited her ability to lift objects and hold her arms over her head for periods of time. Toyota had changed her role in their plant several times, but she was once again being asked to perform a job that required lifting her arms for long periods of time. There was some dispute over whether she quit or was fired, but the Supreme Court focused on what standard should be used when determining that someone is disabled in a way that substantially limits them from performing manual tasks. There was agreement that manual tasks are a major life activity under the ADA and that to be substantially limited with respect to performing manual tasks would qualify as a disability; the issue was whether this meant an inability to lift your arms for a period of time or an inability to brush your teeth and perform other hygiene-related activities.\(^6\)

The Court reviewed the ADA and found that the inclusion of the words “substantial” with respect to the limitation needed and “major” with respect to the type of life activities involved meant that a broad range of manual tasks must be beyond the ability of the plaintiff. The alleged disability could not interfere in a only minor way with someone’s abilities to perform manual tasks and the tasks must be central to everyone’s daily life. Based on this reading of the ADA, the plaintiff was not disabled since she was able to perform the manual tasks that everyone must to take care of themselves and was only limited with respect to certain repetitive motions and holding up her arms, activities that many people do not perform often in their daily lives.\(^7\)

**Provisions of the Act**

\(^5\) *Id.* at 490-494.


\(^7\) *Id.* at 196-198.
The Act begins with Congressional findings explicitly showing that the Act was meant to override the Supreme Court’s decisions in Sutton and Toyota.8

The Act first removes the section of the ADA that refers to a number of disabled Americans,9 a provision that was relied upon by the Supreme Court to support its narrow interpretations of the ADA.10 It also removes language calling those with disabilities an insular minority,11 as again this could be seen as limiting language.

The Act also amends the definitions section of the ADA by defining “substantially limits” as materially restricts, “major life activities” with non-inclusive lists of major life activities, and “regarded as having such an impairment” as subjected to a prohibited act under the ADA due to a perceived impairment regardless of whether the impairment would limit a major life activity, changes meant to expand the definitions of these terms beyond where the Supreme Court felt they went. The Act also calls for broad interpretations of the disability definition and explicitly states that mitigation other than ordinary eyeglass or contact lenses should not be considered when determining whether an impairment substantially limits a major life activity.12 Therefore, mitigation may be considered for eyesight-related disabilities only, and even in those cases it may only be considered if the person’s sight is mitigated by ordinary, everyday glasses or contacts.

Other generally more minor changes as well as conforming changes are made by the Act to the ADA.13 The Act’s effective date is January 1, 2009.14

In essence, the Act directs courts and others to interpret the ADA very broadly, in direct opposition to the Supreme Court’s holdings that the terms had to be read narrowly to follow Congressional intent.

Impact of the Act

The Act clearly and explicitly expands the scope of the ADA. More and more people will find their impairments meeting the definition of disability, and the standard for showing a perceived impairment will be significantly lower.

The main analysis of ADA cases will now shift from the definition of disability to questions regarding whether the person was in fact subjected to discrimination based on the disability. This will require major reconsideration by employers of how they make employment decisions when the ADA might be implicated and may cause employers to make decisions based largely on fear of ADA liability.15

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9 Id. at Sec. 3.
10 Sutton, supra note 2; Toyota, supra note 6.
11 H.R. 3195, supra note 8, at Sec. 3.
12 Id. at Sec. 4.
13 Id. at Sec. 4-7.
14 Id. at Sec. 8.
15 Daniel A. Schwartz, What Employers Need to Know About the ADA Amendments Act of 2008, CONNECTICUT EMPLOYMENT LAW BLOG, Sept. 19, 2008, available at:
Additionally, it is unclear whether disabling impacts of mitigating measures can be considered. If a person has an illness for which a medication is effective, but the medication in turn causes fatigue, lack of coordination, and inability to drive machinery, this could have been considered under the Supreme Court’s jurisprudence as part of the disability question since the impact – positive and negative – of mitigating factors were part of the equation. Under the Act, this may not be so. What impact this will have on an employee’s ability to receive reasonable accommodation to address the underlying disability and any related disability caused by medical mitigation remains uncertain. If the negative impacts of mitigation are no longer viewed as relevant, many disabled people may be worse off than they were under the Supreme Court’s decisions.

Conclusion

The true extent of the Act will not be known until a highly debated ADA case makes its way to the Supreme Court under the new law. While Congress may not have actually helped people with disabilities, it may have gotten some satisfaction from telling the Supreme Court what it could do with its ADA decisions.


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