



## NATIONAL CAMPAIGN TO **RESTORE CIVIL RIGHTS**

### **DISABILITY RIGHTS**

The Americans with Disabilities Act (ADA) was signed into law in 1990 to make sure that people with disabilities are protected from discrimination. Now, however, because of a series of recent Supreme Court decisions, people who are discriminated against because of a mental or physical impairment often may not be able to prove that they are entitled to any protections at all under the ADA. The courts have so narrowly defined who is a person "with a disability" under the law, that many people with epilepsy, diabetes, vision in only one eye, significant hearing impairments, and other conditions don't have protection from discrimination. The courts have also concluded that states are shielded from many claims of discrimination and have weakened protections so that fewer and fewer people with disabilities are safe from discrimination across a range of situations.

For example, in a series of cases, the Supreme Court concluded that someone might not be considered a "person with a disability" under the ADA if that person used medication or devices that helped them with their impairment. Thus, a person with epilepsy controlled through medication or a person with a hearing impairment who used a hearing aid could be fired explicitly because of bias against disability, and it's very likely that they would have no protection under the ADA because they couldn't prove they had a disability under the narrow definition adopted by the courts.

There are many other ways in which it has become harder for people with disabilities to enforce their rights. For example, Patricia Garrett was transferred and demoted from her job as supervising nurse at the University of Alabama's Medical Center hospital after being treated for breast cancer—even though she could still perform her job well. Ms. Garrett took her employer to court. The Supreme Court ruled, however, that state employers should be shielded from paying any lost wages or damages in employment discrimination suits brought under the ADA, even when it is clear that they have discriminated.

Sometimes the states still do have to comply with the ADA, at least for now. George Lane showed up for his court date at a Tennessee courthouse to discover that he needed to get to the second floor for his trial. But Mr. Lane uses a wheelchair and the courthouse had no elevator. At his first appearance, Mr. Lane crawled up the two flights of stairs to get to the courtroom. When he returned, however, he refused to go through such a humiliating experience again or to be or be carried up the stairs. Mr. Lane was arrested on the spot and jailed for failing to appear at his hearing. He later sued, claiming that the state had violated the ADA by failing to make the courthouse accessible or otherwise arranging for his trial to be held in a location that was wheelchair accessible. Building on the Supreme Court's ruling in the *Garrett* case, the state argued that individuals with disabilities should not be able to sue states for violating the ADA even if states discriminate in the way they provide public services. The Supreme Court ruled for Mr. Lane by a very narrow margin, showing how fragile our civil rights are. But it remains an open question whether the Supreme Court will allow lawsuits against the states for discriminating

in the provision of other public services, aside from situations where courthouses are inaccessible.

In another case, the Supreme Court made it more difficult for families to seek appropriate educational services for their children with special needs. Pearl and Theodore Murphy believed that their son who has a disability was not receiving the kind of public education that's guaranteed under the Individuals with Disabilities Education Act (IDEA). They sued their school district to force it to provide the education the boy needed and the court decided the case in their favor. Many families can't afford to hire a lawyer, so the law allows families to request that school districts pay their fees and costs if they win the lawsuit under the IDEA, because getting children appropriate services is so important. Though the district and circuit courts granted the Murphy's request, in 2006, the Supreme Court ruled against them. Through a narrow reading of the law, the majority of the Court decided that the costs of experts --needed to prove a case -- could not be reimbursed. This decision makes it even more difficult for parents with limited resources to go to court to enforce their children's rights to the education they need. If parents have to cover the cost of getting expert opinions in order to prove their case, many children won't get appropriate services, just because their parents can't afford the legal costs.

In yet another case, the Supreme Court removed a powerful incentive against discrimination: punitive damages awards in discrimination cases. Jeffrey Gorman, who uses a wheelchair, was arrested in Kansas City, Mo. The van that took him to the police station was not equipped to transport people with disabilities. Despite his protests, the officers removed Mr. Gorman from his chair and used the belt from his pants to strap him onto a bench in the back of the van. The belt broke during the ride, he fell, and Mr. Gorman was hurt and humiliated. He took the police department to court for not transporting him in an appropriate vehicle. The jury awarded Mr. Gorman 1.2 million dollars in punitive damages, an award meant to punish the police department for its discriminatory actions. The Supreme Court, however, reversed the ruling and said that punitive damages cannot be awarded in disability discrimination cases against government agencies.

**For more information on disability rights and the courts, please contact the National Campaign to Restore Civil Rights at: [rollback@nylpi.org](mailto:rollback@nylpi.org).**

**For detailed case information, please see the below:**

- [\*Sutton v. United Airlines, Inc.\*](#) (527 U.S. 471, 1999)
- [\*Murphy v. United Parcel Service\*](#) (527 U.S. 516, 1999)
- [\*Arlington Central School District v. Murphy\*](#) (2006)
- [\*Albertson's Inc., v. Kirkingburg\*](#) (527 U.S. 555, 1999)
- [\*Toyota Motor Manufacturing v. Williams\*](#) (531 U.S. 356, 2002)
- [\*Bd. of Trustees of the Univ. of Alabama v. Garrett\*](#) (531 U.S. 356, 2001)
- [\*Tennessee v. Lane\*](#) (541 U.S. 509, 2004)
- [\*Barnes v. Gorman\*](#) (536 U.S. 181, 2002)