Pennsylvania Department of Corrections et al. v. Ronald R. Yeskey: Prisons and the Americans with Disabilities Act of 1990

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This article reviews a recent U.S. Supreme Court decision that addresses the issue of whether Title II of the Americans with Disabilities Act of 1990, which prohibits a public entity from discriminating against a person with a disability due to that individual's disability, applies to inmates in state prisons. Potential ramifications of this important decision are briefly addressed.

The U.S. Supreme Court released its unanimous decision, written by Justice Scalia (118 S. Ct. 1952 (1998)) on June 15, 1998, concerning issues relevant to prisons and the Americans with Disabilities Act of 1990 (ADA).[1] Justice Scalia described the question in this case as whether Title II of the ADA, "which prohibits a 'public entity' from discriminating against a 'qualified individual with a disability' on account of that individual's disability, see § 12132, covers inmates in state prisons."

Respondent Ronald Yeskey had been sentenced in May 1994 to serve 18 to 36 months in a Pennsylvania correctional facility. The sentencing court recommended placement in Pennsylvania's motivational boot camp for first-time offenders, which would have resulted in release on parole in six months if successfully completed. However, Mr. Yeskey was refused admission due to his medical history of hypertension.

Mr. Yeskey filed a lawsuit against the Pennsylvania Department of Corrections alleging that his exclusion from the boot camp violated the ADA. The district court dismissed for failure to state a claim due to its holding that the ADA was inapplicable to inmates in state prisons. The Third Circuit reversed (118 F.3d, 168 (1997)), and the Supreme Court granted certiorari in 1998.

The petitioners argued that state pris-

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oners were not covered by the ADA for the same reason that the Supreme Court held in *Gregory v. Ashcroft*, 501 U.S. 452 (1991), that state judges were not covered by the Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. § 621 *et seq. Gregory* was based on the principle that absent an "unmistakably clear" expression of intent to "alter the usual constitutional balance between the States and the Federal Government," the Supreme Court would interpret a statute to preserve rather than destroy the States' "substantial sovereign powers" (501 U.S. at 460–61 (citations omitted)). Justice Scalia acknowledged that the ultimate control over the management of state prisons was likely a traditional and essential State function subject to the plain statement rule of *Gregory*. However, the requirement of the *Gregory* rule was amply met by the ADA. Specifically, "the statute's language unmistakably includes State prisons and prisoners within its coverage. The situation here is not comparable to that in *Gregory*." The ADEA contained an exception for appointees on the policy-making level, which clearly included appointed state judges.

Justice Scalia wrote that:

> . . . the ADA plainly covers state institutions *without* any exception that could cast the coverage of prisons into doubt. Title II of the ADA provides that: "[s]ubject to the provisions of this subchapter, no qualified individual with a disability, shall by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. 42 U.S.C. § 12132."

The Supreme Court decision indicated that "state prisons fall squarely within the statutory definition of 'public entity,' which included 'any department, agency, special purpose district, or other instrumentality of a State or States or local government' § 12131(1)(B)."

The Court disagreed with the petitioners' argument that the phrase "'benefits of the services, programs, or activities of a public entity,' §12132, creates an ambiguity, because state prisons do not provide prisoners with 'benefits' of 'programs, services, or activities' as those terms are ordinarily understood." The decision indicated that "[m]odern prisons provide many recreational 'activities,' medical 'services,' and educational and vocational 'programs,' all of which at least theoretically 'benefit' the prisoners (and any of which disabled prisoners could be 'excluded from participation in')." The Court cited other Supreme Court cases that address such services and programs. The Court found no basis for distinguishing these programs, services, and activities from those provided by public entities that are not prisons, based on reading the ADA.

The petitioners' contention that the term "qualified individual with a disability" was ambiguous in its application to state prisoners was rejected by the Court. Specifically, "[t]he statute defines the term to include anyone with a disability 'who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services or the participation in

programs or activities provided by a public entity.'" (42 U.S.C. §12131(2)).

The petitioners also argued that the words "eligibility" and "participation" implied voluntariness on the part of an applicant who seeks a benefit from the state, thus essentially excluding prisoners, who are being held against their will, from coverage by the ADA. This argument was not accepted because "the words do not connote voluntariness" and "even if the words did connote voluntariness, it would still not be true that all prison 'services' and 'programs,' and 'activities' are excluded from the Act because participation in them is not voluntary." The opinion indicated that there were many programs, services, and activities within a prison that involve voluntary participation by inmates, such as the boot camp program in question.

Finally, the Court addressed the petitioners' argument that the statute's statement of findings and purpose did not mention prisons and prisoners. This statement was described as being questionable because the ADA references discrimination "in such critical areas as. . . institutionalization [§ 12101(a)(3)], [which] can be thought to include penal institutions." Justice Scalia wrote that:

> . . . assuming it to be true, and assuming further that it proves, as petitioners contend, that Congress did not "envisio[n] that the ADA would be applied to state prisoners," in the context of an unambiguous statutory text that is irrelevant. As we have said before, the fact that a statute can be "applied in situations not expressly anticipated by Congress does not demonstrate ambiguity. It demonstrates breadth." [Citation omitted.]

> [The Court's conclusion] that the text of the ADA is not ambiguous causes us also to reject petitioners' appeal to the doctrine of constitutional doubt, which requires that we interpret statues to avoid "grave and doubtful constitutional questions." [Citation omitted].

The Court did not address the issue presented by petitioners whether the application of the ADA to state prison is a constitutional exercise of Congress's power under the Commerce Clause. This issue presented had not been addressed by either the district court or the Court of Appeals.

Justice Scalia concluded that "[b]ecause the plain text of Title II of the ADA unambiguously extends to state prison inmates, the judgment of the Court of Appeals is affirmed."

Comment

Various commentators have stated that this ruling could force state correctional facilities to provide disabled inmates with greater access to a variety of programs, which will probably require expensive renovations.[1] Significant segments of the inmate population likely to benefit from the ADA protections include the increasingly large numbers of elderly inmates, those with HIV infection, and those with serious mental illnesses. The most significant fiscal impact is likely to be related to accommodating inmates with physical disabilities.

However, it is very common for inmates with serious mental illnesses to be excluded from boot camp programs because of the lack of psychiatric services available to provide medication monitoring, as opposed to the assessment that

such inmates could not adequately cope with the boot camp experience even if they were receiving appropriate medications. Similar exclusions from work camps are not uncommon. Presumably, the cost of providing mental health services in such environments will be balanced against the ramifications of discriminating against inmates requiring such services.

The Supreme Court did not rule on the constitutionality of the ADA, which has been argued by some states to be unconstitutional because Congress, through the ADA, has created substantive rights. It will not be surprising if Congress is lobbied by the states to amend the ADA by exempting prisons, to avoid the likely expenditures required by the Yeskey decision.

Reference

1. 104 Stat. 337, 42 U.S.C. § 12131 *et seq.*
2. Tischler E: Supreme Court decisions stay the course. On the Line (American Correctional Association Newletter). September 1998, p 1