US Supreme Court ruling limits disabled workers' rights

Kate Randall, John Andrews
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In a ruling denounced by advocates of the disabled, the US Supreme Court ruled unanimously last Tuesday that an auto worker who could not do assembly line work because of carpal tunnel syndrome was not protected by the Americans with Disabilities Act (ADA). The Court held 9-0 that a worker physically unable to do a specific manual job assignment is not "disabled" if the task "is not an important part of most people's daily lives."

The pro-business ruling limits the rights of millions of disabled Americans to use the ADA to force their employers to accommodate their disabilities in the workplace, by raising the standard for winning lawsuits on claims of discrimination based on disability. There are an estimated 50 million individuals in America who are disabled in some way, and the federal Equal Employment Opportunity Commission receives more than 18,000 discrimination complaints from them every year under the ADA.

The irony is that the sort of disability the high court is exempting from the ADA is precisely the type of injury caused by years of hard work. Carpal tunnel syndrome frequently results from repetitive hand motions. Today, more than half of all work-related injuries are due to repeated motion, including injuries in manufacturing as well as the growing number of jobs involving computer keyboard work.

The case ruled on by the Court last week was brought by Ella Williams, a worker at the Toyota auto assembly plant in Georgetown, Kentucky who was hired in August 1990. Her assignment to an engine fabrication assembly line, where she used pneumatic tools, eventually caused her to develop pain in her hands, wrists and arms due to bilateral carpal tunnel syndrome and tendonitis.

Management reassigned her to work in Quality Control, where her main task was visual inspection of vehicle paint jobs, along with some opening and closing of car doors and trunks. She was able to complete this work with minimal difficulty. However, in the fall of 1996 management instructed her to check paint by spreading oil on the passing cars with a sponge attached to a block of wood, which required Ms. Williams to hold her hands and arms at shoulder height for several hours at a time.

The work inflamed Ms. Williams' muscles and compressed her nerves, causing extreme pain. Toyota refused her request to return to her previous job assignment. Ms. Williams' doctor placed her on a work restriction. Toyota then terminated her employment, citing a poor attendance record.

Williams sued Toyota in District Court for failing to provide a "reasonable accommodation" for her disability as required by the Americans with Disabilities Act. The District Court dismissed the case, but the Sixth Circuit Court of Appeals reinstated it, finding that her condition met the ADA criteria for a "disability" because it substantially limited a "major life activity," the ability to perform manual work. The Supreme Court reversed, sending the case back to the Court of Appeals with instructions to apply a much stricter test to determine whether a worker is disabled. Now workers must establish that their disability is so serious that they cannot perform one or more of the basic personal activities of daily life, such as grooming or feeding themselves.

At the heart of the Supreme Court's ruling is the reactionary view that work itself is not a "major life activity." The ruling allows employers to get rid of workers injured on the job even though there are available work assignments they can still perform. Associate Justice Sandra Day O'Connor, the opinion's

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author, arrogantly dismissed the reality faced by millions of manual workers, claiming that "repetitive work with hands and arms extended at or above shoulder levels for an extended period ... is not an important part of most people's daily lives. Household chores, bathing, and brushing one's teeth, in contrast, are among the types of manual tasks of central importance to people's daily lives."

O'Connor and the other high court justices apparently cannot imagine circumstances where their ability to feed and house their families might depend on their physical ability to perform "repetitive work with hands and arms extended at or above shoulder levels for an extended period," but millions of workers face such conditions every day.

During oral arguments in the Williams case, Justice O'Connor callously asserted that the ADA was intended to focus on the "wheelchair bound" and not "carpal tunnel syndrome or bad backs." Stephanie Barnes, founder and executive director of the Association for Repetitive Motion Syndromes in Colorado, called the ruling "an absolute outrage," commenting that carpal tunnel syndrome "affects every aspect of people's lives. It's a much more serious condition than most people realize."

The last several years have seen a number of rulings by the Supreme Court chipping away at the protections of the ADA, which was signed into law by former President George Bush in 1990. In 1998, the Court eliminated the responsibility of employers to accommodate common impairments that can be corrected by eyeglasses, medication or other treatment. Last year, the Court extended the doctrine of sovereign immunity to exempt state workers from protection under the ADA.

The fact that not one of the justices supported the Sixth Circuit's more expansive view of the ADA is particularly notable. Many of the most important cases of the past few years, including the sovereign immunity cases and the theft of the 2000 presidential election, have been decided by narrow 5-4 margins. That all the justices, including the four so-called liberals on the Court, joined O'Connor's opinion demonstrates how much the growing disparity in wealth has shifted the existing political establishment to the right on issues of basic civil liberties.

Ruth Colker, Constitutional Law chair at Ohio State University School of Law, commented: "Right now all three branches of government—executive, legislative and judicial—are tilted in the same direction—to the right. The legislative branch has resisted revisiting the ADA; we have no backstop. The business community has a completely free wheel to take an anti-employee perspective."

The Supreme Court's ruling was not the only blow last week to workers with repetitive motion injuries. Making a "recess appointment" to bypass congressional opposition, George W. Bush appointed Eugene Scalia, whose father is Associate Justice Antonin Scalia, the leader of the high court's extreme right wing, as solicitor general at the Labor Department, the No. 3 job.

The appointment generated fierce opposition because of Scalia's denunciation of ergonomic regulations designed to protect workers from repetitive motion injuries as "junk science" in a *Wall Street Journal* piece two years ago. He added that unions seek ergonomic regulations to increase dues paying by slowing down productivity so companies hire more employees.

Scalia is a partner at Gibson, Dunn & Crutcher, the law firm that represented Bush in the 2000 presidential election theft. He testified on Capitol Hill last October that in his 10-year labor-law career he has represented only two workers. All his other clients have been corporate.

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