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Reflections on the ADA: Rethinking the Past, and Looking toward the Future

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It is my great pleasure to welcome everyone to this conference on "Facing the Challenges of the ADA: The First Ten Years and Beyond." Professor Ruth Colker and Leslie Kerns of the *Law Journal* have done an excellent job in both conceiving and planning this important gathering, and they deserve great credit and our deep gratitude.

When Congress enacted the Americans with Disabilities Act in 1990, some 43 million Americans had one or more physical or mental disabilities.¹ Congress was aware that many of these citizens encountered many forms of discrimination on a daily basis.² From blatant and outright intentional exclusion to the "discriminatory effects of architectural,³ transportation,⁴ and communication barriers,"⁵ disabled Americans had been, and unfortunately continue to be,

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¹ 42 U.S.C. § 12101(a)(1) (1994). The Americans with Disabilities Act defines the term "disability" to mean, with respect to an individual: (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. 42 U.S.C. § 12102(b)(2) (1994).

² § 12101(a)(5). Individuals with disabilities also experienced discrimination via "overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities." *Id.*

³ To aid in the full integration of individuals with disabilities, the ADA requires that the Architectural and Transportation Barriers Compliance Board "issue minimum guidelines that . . . supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of [Titles II and III of the ADA]." 42 U.S.C. § 12204(a) (1994).

⁴ For example, Title II of the statute explicitly states that "it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs." 42 U.S.C. § 12146 (1994).

⁵ § 12101(a)(5). The Department of Justice regulations state that "[a] public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable,

forced to live lives that are more difficult than necessary or in fact would be tolerated by most Americans.⁶ Indeed, historically, individuals with disabilities have been relegated to lesser services,⁷ limited programs,⁸ and fewer benefits and job opportunities⁹ than are often taken for granted in this nation.¹⁰

In passing the Act, Congress made it clear that disabled Americans, similar to Americans who have faced discrimination on the more “traditional” bases of race, color, gender, or age, had been subjected to discrimination and prejudice that has denied them the opportunity¹¹ to fully pursue the American dream.¹² Unfortunately, prior to the ADA, individuals who were discriminated against on the basis of a disability had few avenues of legal redress to end such discrimination.¹³ In passing the ADA, Congress made it clear that disabled individuals, as a group, had been disenfranchised socially,¹⁴ vocationally,¹⁵ economically,¹⁶ and educationally.¹⁷

i.e., easily accomplishable and able to be carried out without much difficulty or expense.” 28 C.F.R. § 36.304(a) (2000).

⁶ See 42 U.S.C. § 12101(a)(5) (1994). For example, the State of Mississippi still hunts for the feeble-minded. Section 41-21-43 of the Mississippi code allows for the care of the “feeble-minded,” and that “the first duty of boards of supervisors in extending care and protection to feeble-minded persons, [shall be] to prevent the propagation of the feeble-minded.” MISS. CODE ANN. § 41-21-43 (1999). If the board of trustees of a mental institution finds that a feeble-minded person “by the laws of heredity is the probable potential parent of socially inadequate offspring likewise afflicted, [] the said [feeble-minded person] may be sexually sterilized.” MISS. CODE ANN. § 41-45-9 (1999).

⁷ 42 U.S.C. § 12101(a)(3) (1994) (“discrimination against individuals with disabilities persists in such critical areas as . . . health services, voting, and access to public services.”).

⁸ The program access requirement of Title II, for example, should enable individuals with disabilities to participate in and benefit from the programs of public entities. §§ 12131–12189 (mandating equal services in public transportation and public accommodation).

⁹ Title I of the ADA prevents employment discrimination based on a disability. See §§ 12111–12117.

¹⁰ See § 12101(a)(5); *supra* note 6 and accompanying text.

¹¹ Might this suggest the need to overcome a more pervasive societal view about citizens and that it needs to be changed? See § 12101(a)(2) (stating that society has historically tended to discriminate against disabled individuals, which continues to be a serious and pervasive problem).

¹² As the ADA notes, “the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous.” § 12101(a)(9).

¹³ § 12101(a)(4). For many years the primary statutory support available to individuals with disabilities was section 504 of the Rehabilitation Act of 1973. See 29 U.S.C. § 794 (1994).

¹⁴ Often, individuals with disabilities such as epilepsy were forcibly institutionalized. See *e.g.*, *Ex parte Ziegler*, 15 N.W.2d 34 (Wis. 1944) (denying a habeas corpus petition to release an epileptic forcibly institutionalized).

The ADA presented disabled Americans with a much needed and long overdue opportunity to combat the historical discrimination waged against them. As our colleague Professor Peter Blanck has said, the Act was “the first federal statute addressing discrimination against persons with disabilities in every day life.”¹⁸ The ADA is an impressive tool for this purpose, as Congress intentionally labeled disabled Americans a “discrete and insular minority.”¹⁹ In doing so, Congress recognized that disabled individuals had been subjected to a history of purposeful and unequal treatment, and they deserved legal redress. The Act recognized that “the nation’s proper goals regarding individuals with disabilities was to assure equality of opportunity, full participation, independent living and economic self-sufficiency.”²⁰

Those aware of my writing and speaking know that when I think about legal and public policy issues, I feel it is critical to move beyond the often arcane and convoluted language of our profession and focus directly on the actual impact of discrimination, exclusions, and artificial limitations. It is important to focus on the impact of those factors on real people, not just the impact on the hypothetical figures which often populate our books and articles.²¹ Unfortunately, as a young

¹⁵ See 29 U.S.C. § 794(a) (1994) (prohibiting discrimination based on disability in any program receiving federal funds).

¹⁶ Census data, national polls, and other studies have documented that individuals with disabilities have experienced economic discrimination. 42 U.S.C. § 12101(a)(6) (1994).

¹⁷ *Id.* Another statute, the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400–1491 (1994), is primarily used to protect the educational interest of disabled students. 20 U.S.C. § 1400(c) (1994) (noting the purpose of the IDEA).

¹⁸ Peter D. Blanck, *The Emerging Work Force: Empirical Study of the Americans with Disabilities Act*, 16 J. CORP. L. 693, 699 (1991). “[I]t is designed to outlaw discrimination in the areas of employment, public services, public accommodations, transportation, telecommunications, and the activities of state and local governments.” *Id.* (citing 42 U.S.C. § 12111–12117 (1994)).

¹⁹ 42 U.S.C. § 12101(a)(7) (1994). In *City of Cleburne v. Cleburne Living Center Inc.*, 473 U.S. 432 (1985), the Supreme Court declared that, notwithstanding Congress’s apparent attempt at providing disabled individuals with the utmost protection, individuals with disabilities could not qualify as a quasi-suspect class. *City of Cleburne*, at 442. The Supreme Court, in *Heller v. Doe ex rel. Doe*, 509 U.S. 312 (1993), left open the possibility that it might reconsider whether the disabled are a suspect or quasi-suspect class. *Heller*, at 319; see also *id.* at 335 n.1 (Souter, J., dissenting); *Kilcullen v. N.Y. State Dep’t. of Transp.* 33 F. Supp. 2d 133, 143 (N.D.N.Y. 1999).

²⁰ 42 U.S.C. § 12101(a)(8) (1994).

²¹ The Fair Housing regulations from the Department of Housing and Urban Development are very similar to the intentions of the ADA regulations, and outline a prime example of artificial barriers in the architectural context. Example (1) states:

A tenant with a handicap asks his or her landlord for permission to install grab bars in the bathroom at his or her own expense. It is necessary to reinforce the walls with blocking between studs in order to affix the grab bars. It is unlawful for the landlord to refuse to permit the tenant,

boy who emerged from the intersection of race, poverty, and exclusion in this country, I am often able to draw on personal examples of the pain and misery of discrimination and the denial of opportunity to create a full and complete life. It is certainly not with pleasure that I once again turn to my own life, and that of my family, to help me think about the Americans with Disabilities Act and the even larger problems faced by Americans with disabilities.

As I have thought about the ADA over the last ten years, I have wondered if, had it been in effect during their lives, would it have helped my own father and grandmother as they struggled with chronic alcoholism. Both my father's and my grandmother's conditions affected them for nearly all of their adult lives. Despite my father's prediction when I was a teenager that the harshness of my youth, the poverty, the isolation, and the alcoholism that destroyed my family would one day pale into a distant memory, it still haunts me. Alcohol completely controlled my father's and my grandmother's lives, and the ramifications of their illness have and will continue to affect our family. I often wonder if sustained treatment for alcoholism could have made a difference in their lives and, in turn, mine.

Even though some federal circuit courts would *not* have considered their alcoholism a disability *per se*,²² even I, as a teenager, would have been able to show that my father's and grandmother's conditions substantially limited their abilities to perform major life activities. Though my grandmother was able to keep her job as a short-order cook for many years, it is conceivable that her alcoholism foreclosed many other employment opportunities from her. My father, on the other hand, was unable to hold a job for any extended period of time. If an employer had fired him because of his alcoholism, and not for some behavior associated with his disability,²³ he may have been discharged in

at the tenant's own expense, from making the modifications necessary to add the grab bars. However, the landlord may condition permission for the modification on the tenant agreeing to restore the bathroom to the condition that existed before the modification, reasonable wear and tear excepted. It would be reasonable for the landlord to require the tenant to remove the grab bars at the end of the tenancy. The landlord may also reasonably require that the wall to which the grab bars are to be attached be repaired and restored to its original condition, reasonable wear and tear excepted. However, it would be unreasonable for the landlord to require the tenant to remove the blocking, since the reinforced walls will not interfere in any way with the landlord's or the next tenant's use and enjoyment of the premises and may be needed by some future tenant.

24 C.F.R. § 100.203(c) (2000).

²² See, e.g., *Zenor v. El Paso Healthcare Sys., Ltd.*, 176 F.3d 847, 859–60 (5th Cir. 1999) (citing *Burch v. Coca-Cola Co.*, 119 F.3d 305, 315 (5th Cir. 1997)) (noting that the *Burch* court held that alcoholism is not a disability *per se* under the ADA).

²³ Several circuits maintain that an employer may hold an employee who is an alcoholic to the same qualification standards for employment or job performance and behavior that such an entity holds for other employees, even if any unsatisfactory performance or behavior is related to the alcoholism. *Salley v. Circuit City Stores*, 160 F.3d 977, 981 (3d Cir. 1998); see also *Den Hartog v. Wasatch Acad.*, 129 F.2d 1076, 1086 (10th Cir. 1997) (quoting 42 U.S.C.

violation of Title I of the ADA,²⁴ and might have been able to receive significant help, which may have changed his and our family's lives considerably. Consequently, as I have listened to the debate about whether alcoholism should or should not be covered under the ADA, I have never forgotten the effect of alcoholism on me and my family when it was viewed as a personal choice. I have vividly remembered that the ripple effect of alcoholism on families was simply considered an unfortunate by-product of the personal lifestyle choice.²⁵

The ADA was designed to do more than attempt to eradicate disability discrimination in the area of employment.²⁶ Indeed, it was intended to be comprehensive enough "to remove barriers, both physical and attitudinal, that prevent people with disabilities from participating fully in many aspects of community life."²⁷

Thus, the ADA was also designed to assist disabled individuals in securing adequate educational opportunities without fear of or concern about illegal and unwarranted discrimination. Long after the hard days of my youth were behind me, I was once again required to witness the harsh world of disability as it affected some of my family members. I recall the grave concern that both my wife and I had when we learned that some of our own children were faced with various learning disabilities. I have vivid memories of the difficulty of trying to secure services for them and recall the painful looks on their faces as they would return home and share the frustration they experienced in school. A frustration that was directly linked to their disability, but was not considered sufficiently worthy to merit attention by school teachers and administrators.

§ 12114(c)(4) (1994)). Thus, an alcoholic is not totally shielded from discharge for actions taken due to his inebriation.

²⁴ Title I of the ADA, the section of the statute covering employment, states that "[n]o covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment." 42 U.S.C. § 12112(a) (1994).

²⁵ Some courts have noted that individuals who consume alcohol voluntarily choose to do so. *See United States v. Cockerell*, 49 C.M.R. 567, 577 (A.C.M.R. 1974) ("Any *voluntary choice* carries with it responsibility and if the person is aware of prior episodes of irrational behavior after consumption of alcohol then he is aware that *his choice to drink alcohol* increases the risk of harm to others.") (emphases added).

²⁶ The ADA was also intended to battle disability discrimination by public entities in the administration of their services, programs, or activities. *See* 42 U.S.C. § 12132 (1994). Title III of the ADA was aimed at ending discrimination in public accommodations and by private entities considered public accommodations. *See* 42 U.S.C. §§ 12181–12189 (1994); § 12181(7) (1994) (listing the private entities that are considered public accommodations under the ADA).

²⁷ Paul Steven Miller, *The EEOC's Enforcement of the Americans with Disabilities Act in the Sixth Circuit*, 48 CASE W. RES. L. REV. 217, 217 (1998).

Their learning disabilities affected and continue to affect our entire family. In my first days as an advocate for my own children, it became quickly obvious to me that their inability to master educational objectives was not the result of a lack of effort on their part. But as many who have looked at learning disabilities know, those are hard cases to make to school officials. I remember looking to many sources for support of my children including the ADA²⁸ and related cases,²⁹ as I made trip after trip to schools and colleges seeking ways to enhance the limited educational opportunities that were available to my children. I specifically remember looking to the ADA's predecessor—section 504 of the Rehabilitation Act of 1973.³⁰ It, too, was a statute intended “to prevent old-fashioned and unfounded prejudices against disabled persons from interfering with those individuals’ rights to enjoy the same privileges and duties afforded to all United States citizens.”³¹ Thus, I was able to use this statute to make certain requests and demands on behalf of my children.

As Justice Thurgood Marshall noted in 1985 when writing about disabled Americans, “much has changed in recent years, but much remains the same; outdated statutes are still on the books, and irrational fears or ignorance, traceable to the prolonged social and cultural isolation of the [disabled], continue to stymie recognition of the dignity and individuality of [disabled] people.”³² It is for this reason that one can say that the first ten years of the ADA's existence have been both impressive and disappointing. Important strides have been made, but it is apparent that more needs to be done to provide disabled individuals with the chance to attain the full range of opportunities that this nation can provide, and it

²⁸ 42 U.S.C. §§ 12101–12213 (1994).

²⁹ See, e.g., *Easley ex rel. Easley v. Snider*, 841 F.Supp. 668 (E.D.Pa. 1993) (holding that a program that provided health maintenance and other ancillary services to physically disabled individuals violated the ADA by using improper eligibility criterion to screen out disabled individuals who could benefit from the service); *Petersen ex rel. Petersen v. Hastings Pub. Sch.*, 831 F.Supp. 742 (D.Neb. 1993) (holding that a school district's use of modified Signing Exact English sign language system did not violate the ADA).

³⁰ 29 U.S.C. § 794 (1994). The statute states, in pertinent part:

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Id.

³¹ *Galloway v. Superior Court of D.C.*, 816 F. Supp 12, 20 (D.D.C. 1993). Courts recognize that the ADA was expressly modeled after section 504 and is to be interpreted consistently with that provision. *Wong v. Regents of the Univ. of Calif.*, 192 F.3d 807, 816 n.26 (9th Cir. 1999) (citing *Zukle v. Regents of the Univ. of Calif.*, 166 F.3d 1041, 1045 n.11 (9th Cir. 1999) and *Therault v. Flynn*, 162 F.3d 46, 48 n.3 (1st Cir. 1998)).

³² *City of Cleburne v. Cleburne Living Ctr. Inc.*, 473 U.S. 432, 467 (1985) (Marshall, J., dissenting).

is unclear in what direction the courts will lead us.³³

The Supreme Court, in its 1998–99 term, decided five important cases interpreting the Americans with Disabilities Act.³⁴ “The Court’s rulings [during] this term clarified the law in this difficult area, by further defining the term ‘disabled,’ elucidating the relationship between the ADA and another federal statute, and adding to the list of ‘reasonable accommodations’ that must be provided to people with disabilities.”³⁵ In a string of three cases, *Sutton v. United Airlines*,³⁶ *Murphy v. United Parcel Service, Inc.*,³⁷ and *Albertson’s Inc. v. Kirkingburg*,³⁸ the Supreme Court declared that corrective and mitigating measures should be considered in determining whether an individual is disabled under the ADA. These three cases have the effect of significantly limiting the scope of conditions that can give rise to a claim under the ADA.³⁹

In *Sutton*, two twins applied to become pilots with United Airlines.⁴⁰ Each of the twins had a visual impairment, myopia, that was fully correctable with the use of corrective lens.⁴¹ Without glasses, however, their vision did not meet the standards set by United Airlines.⁴² Similarly, *Albertson’s* concerned an applicant for a truck driver position who had a visual impairment, amblyopia, which adversely affected his ability to pass a physical required by the Department of Transportation.⁴³ He was fired, and Albertson’s refused to rehire him, despite the

³³ Arguably, the Court’s most recent decisions will, in some ways, help to perpetuate the status quo as opposed to leading to better understanding and acceptance. See *infra* notes 34–54 and accompanying text.

³⁴ John W. Borkowski & Alexander E. Dreier, *The 1998–99 Term of the United States Supreme Court and its Impact on Public Schools*, 138 WEST’S EDUC. LAW REP. 1, 8 (1999).

³⁵ *Id.*

³⁶ 527 U.S. 471 (1999).

³⁷ 527 U.S. 516 (1999).

³⁸ 527 U.S. 555 (1999).

³⁹ Borkowski & Dreier, *supra* note 34, at 9. Lauren J. McGarity notes that the next wave of ADA litigation, focusing on correctable disabilities, will likely include plaintiffs who argue either that their corrections are imperfect, or that the side effects of their corrective measure substantially limits a major life activity. Lauren J. McGarity, Note, *Disabling Corrections and Correctable Disabilities: Why Side Effects Might Be the Saving Grace of Sutton*, 109 YALE L.J. 1160, 1163 & n.14 (2000) (citing *Belk v. Southwestern Bell Tel.*, 194 F.3d 946, 950 (8th Cir. 1999) and *Marasovich v. Prairie Material Sales*, No. 98 C 2070, 1999 U.S. Dist LEXIS 18682, at *16 (N.D. Ill. Dec. 1, 1999)). I find it unfortunate, however, that disabled persons must now argue that the side effects of a corrective measure render them disabled under the ADA (as Ms. McGarity urges in her Note), rather than arguing directly to the court that they are, in fact, disabled. McGarity, *supra* at 1164; see also *id.* at 1162–63 (quoting *Sutton*, 527 U.S. at 484).

⁴⁰ *Sutton*, 527 U.S. at 471.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Albertson’s Inc. v. Kirkingburg*, 527 U.S. 555, 558–59 (1999).

fact that he received a waiver from the physical from the Department of Transportation.⁴⁴ Finally, *Murphy* dealt with a job applicant, Murphy, who had extremely high blood pressure that was able to be controlled by medication.⁴⁵ In each of these cases, the Supreme Court held that, in determining whether the respective plaintiffs were disabled within the meaning of the ADA, the applicants must be assessed in the post-mitigated conditions.⁴⁶ This finding has undoubtedly made it more difficult for individuals with disabilities to qualify for, let alone prevail on, a claim under the Americans with Disabilities Act.⁴⁷

In *Cleveland v. Policy Management Corp.*,⁴⁸ the Supreme Court held that an employee filing a Social Security Disability Insurance (SSDI) claim, which requires an individual to be “unable to do his or her previous work,” does not automatically foreclose eligibility for an ADA claim, though the latter requires the individual to be “otherwise qualified” to perform the essential elements of the job.⁴⁹ The Court announced that the employee is entitled to an opportunity to explain any discrepancies in statements made while pursuing SSDI and those made in her pursuit of an ADA claim.⁵⁰

Finally, the Supreme Court, in *Olmstead v. Zimring*,⁵¹ held that disabled people cannot be isolated in large state institutions unless there is a medical reason to do so. Otherwise, the Court held, the state would be engaged in a form of discrimination prohibited by the ADA.⁵² As Justice Marshall had earlier admonished, “[p]rejudice, once let loose, is not easily cabined But most important, lengthy and continuing isolation of the [disabled] has perpetuated the ignorance, irrational fears, and stereotyping that long have plagued them.”⁵³ This seems to strike the right chord by insisting that, whenever feasible, state programs catering to the disabled are to be administered “in the most integrated

⁴⁴ *Id.* at 560

⁴⁵ *Murphy v. United Parcel Serv., Inc.*, 527 U.S. 516, 519 (1999).

⁴⁶ *Borkowski & Dreier*, *supra* note 34, at 8–9.

⁴⁷ See Barbara Hoffman, *Symposium, The Americans with Disabilities Act—Past, Present and Future: Developing Law Over a Decade: Reports of its Death were Greatly Exaggerated: The EEOC Regulations that Define “Disability” Under the ADA After Sutton v. United Air Lines*, 9 TEMP. POL. & CIV. RTS. L. REV. 253, 274–78 nn.164–96 and accompanying text (2000) (noting the circuit court decisions that, following *Sutton*, *Murphy*, and *Albertson’s*, have limited a plaintiff’s ability to utilize the ADA).

⁴⁸ 526 U.S. 795 (1999).

⁴⁹ *Id.* at 797.

⁵⁰ *Id.* at 798.

⁵¹ 527 U.S. 581 (1999).

⁵² *Id.* at 600.

⁵³ *City of Cleburne v. Cleburne Living Ctr. Inc.*, 473 U.S. 432, 464 (1985) (Marshall, J., dissenting).

setting appropriate to the needs of qualified individuals with disabilities.”⁵⁴ In this way, the mass of society will be exposed to an experience that might eliminate exclusion on the basis of disability.

One fact is clear: in spite of the passage of the ADA and the direction that the courts and Congress will take, there are still remnants of discrimination perpetuated upon American citizens. I am vividly reminded of this fact as I see the struggle faced by my own brother. In the young adulthood of his life, his sight was taken from him by a gunman in a bar in Indianapolis, Indiana. It has pained me deeply as I have seen him try to cope with the senseless shooting that stole his vision and the barriers that were immediately erected before him, most never to be removed. Every day is a task, every day is a chore as he seeks to do the things that I, and most Americans, take for granted. Of course, these challenges exist not only for him, but for millions of Americans.

A few years ago I was on a book tour discussing the memoir I wrote about my childhood, *Life on the Color Line: The True Story of a White Boy Who Discovered He was Black*.⁵⁵ The book details my personal transition from a white American to a black American, and the free fall of my family from a position of wealth and privilege to one of severe poverty and blatant racial discrimination. During my book tour visit to Detroit, I was challenged by a young man confined to a wheelchair as to whether his life had been harder than mine. I quickly agreed that, given the choice, I would have much preferred receiving the racial epithets hurled at me, the racial violence directed against me, and the doors closed to me because of my racial heritage than to live his life confined to a wheelchair.

However the more I thought about it, the more I realized that the issue was not who had the tougher life and not who deserved more sympathy, nor who had the stronger case to make for surviving a life of discrimination and denial. The issue was whether either one of our lives had been affected by external factors that should have had absolutely no impact on our ability to live our lives to the fullest extent possible. I believe that recognizing this principle is the only way we can say that we are actually attempting to achieve this “[n]ation’s proper goals regarding individuals with disabilities.”⁵⁶ Only then can we say that we are, indeed, working to assure “equality of opportunity, full participation, independent living, and economic self-sufficiency”⁵⁷ that all Americans deserve.

⁵⁴ *Olmstead v. Zimring*, 527 U.S. 581, 592 (1999) (citing 28 C.F.R. § 35.130(d) (1998)).

⁵⁵ GREGORY HOWARD WILLIAMS, *LIFE ON THE COLOR LINE: THE TRUE STORY OF A WHITE BOY WHO DISCOVERED HE WAS BLACK* (1995).

⁵⁶ 42 U.S.C. § 12101(a)(8) (1994) (stating that “the Nation’s proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals”).

⁵⁷ *Id.*

