Duquesne Law Review

Volume 37 | Number 4 Article 7

1999

Civil Rights - Americans with Disabilities Act of 1990 - Prohibition of Public Entity Discrimination against Qualified Individual with a Disability - Application to Inmates in State Prisons

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Recent Decisions

CIVIL RIGHTS—AMERICANS WITH DISABILITIES ACT OF 1990—PROHIBITION OF PUBLIC ENTITY DISCRIMINATION AGAINST QUALIFIED INDIVIDUAL WITH A DISABLITY—APPLICATION TO INMATES IN STATE PRISONS—The United States Supreme Court held that Title II of the Americans with Disabilities Act of 1990, which prohibits a public entity from discriminating against a qualified individual with a disability on account of that individual's disability, applies to inmates in state prisons.

Pa. Dep't of Corrections v. Yeskey, 118 S.Ct. 1952 (1998).

In May 1994, Ronald R. Yeskey ("Yeskey") was sentenced to the Pennsylvania Department of Corrections for a maximum period of three years.[1] The sentencing court recommended that Yeskey be admitted to the state's motivational boot camp, where he would be eligible for release in six months.[2] Despite this recommendation, Yeskey was refused admission to the program because of a medical history of hypertension.[3]

Yeskey subsequently brought suit in the United States District Court for the Middle District of Pennsylvania against the Department of Corrections and several department officials ("Department").[4] Yeskey alleged that his exclusion from the camp

1. Pa. Dep't of Corrections v. Yeskey, 118 S.Ct. 1952, 1954 (1998). Yeskey was sentenced to serve 18 to 36 months in a Pennsylvania correctional facility. *Id.*

2. *Yeskey*, 118 S.Ct. at 1954. Yeskey would have been released on parole in six months upon successful completion of the camp pursuant to the Motivational Boot Camp Act, 61 PA. CONST. STAT. ANN. § 1121 et seq. (West Supp. 1997). *Id.*

3. *Id.* Hypertension is defined as a "systematic condition that is either symptomless or is accompanied by nervousness, dizziness, or headache." WEBSTER'S NEW INTERNATIONAL DICTIONARY 1113 (3d ed. 1986).

4. *Yeskey*, 118 S.Ct. at 1954. The suit was filed in the United States District Court for

violated the Americans with Disabilities Act ("ADA").[5] Holding that the ADA was inapplicable to state prison inmates, the district court dismissed Yeskey's complaint.[6] On appeal, the United States Court of Appeals for the Third Circuit reversed.[7] The Third Circuit held that the ADA was applicable to state prison programs and that state prisoners are entitled to protection under the ADA.[8] The Supreme Court granted certiorari and affirmed the Third Circuit's decision.[9]

On appeal, the Court addressed the issue of whether the ADA's prohibition of a public entity's discrimination against a qualified individual with a disability applies to state prison inmates.[10] Relying on a canon of statutory construction set forth in *Gregory v. Ashcroft*, the Department argued that inmates of state prisons are not covered by the ADA.[11] The Department also contended that the language of the statute was ambigiuous with regard to the application of the ADA to both state prisons and state prisoners.[12] Finally, the Department argued that the ADA does not cover state prison inmates because the statute does not specifically provide for such application.[13]

The Court addressed the Department's first contention by examining the canon of statutory construction set forth in *Gregory*.[14] The Court noted that *Gregory* relied on the rule that the

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the Middle District of Pennsylvania. *Id.* at 1952.

5. *Id.* at 1954. Title II of the ADA prohibits a "public entity" from discriminating against a "qualified individual with a disability" on account of that disability. 42 U.S.C. § 12131 et seq. (1994).

6. *Yeskey*, 118 S.Ct. at 1954. The District Court dismissed the claim pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. *Id.*

7. *Id.*

8. Yeskey v. Pa Dep't of Corrections, 118 F.3d 168 (3d. Cir. 1997).

9. *Yeskey*, 118 S.Ct. at 1954.

10. *Id.*

11. *Yeskey*, 118 S.Ct. at 1954 (citing Gregory v. Ashcroft, 501 U.S. 452 (1991) (holding that the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq. (1994), does not cover state judges)).

12. *Id.* at 1955. The Department argued that the phrase "benefits of the services, programs, or activities of a public entity," as used in the statute, is ambiguous because such benefits are not provided to prisoners as those terms are ordinarily understood. *Id.* The Department also argued that the term "qualified individual with a disability," as used in the statute, creates an ambiguity with the application of the statute to state prisoners. *Id.*

13. *Id.* The Department contended that the ADA does not cover state prison inmates because the statute's statement of findings and purpose fails to mention either prisons or prisoners. *Id.*

14. *Id.* at 1954. In *Gregory*, the Supreme Court held that state judges were not covered by the Age Discrimination in Employment Act. *Id.* (citing *Gregory*, 501 U.S. at 452).

Court will interpret a statute to preserve the states' sovereign powers unless there is a clear expression of intent to change the constitutional balance between the federal government and the states.[15] Recognizing that a state has a strong interest in utilizing control over the operations of state prisons,[16] the Court assumed that such an exercise, like the establishment of the qualifications of state judges, was subject to the "plain statement" rule of *Gregory*.[17] However, the Court distinguished the non-application of Age Discrimination in Employment Act to state judges from the situation at bar.[18]

To distinguish *Gregory*, the Court assumed that the plain statement rule governed the issue under consideration.[19] Moreover, the Court held that the requirement of the rule was fulfilled because the language of the ADA includes coverage of state prisons and prisoners.[20] The language of the statute in *Gregory* afforded an exception that meant that appointed state judges were not within the coverage of the Age Discrimination in Employment Act.[21] The Court noted that the Yeskey situation was unlike that in *Gregory*.[22] The language of the ADA clearly covers state prisoners because a state prison is a "public entity," as defined by the statute.[23]

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15. *Yeskey*, 118 S.Ct. at 1954. The Court stated that absent an "unmistakably clear" expression of Congressional intent to "alter the usual constitutional balance between the States and the Federal Government," the Court will construe a statute to preserve substantial sovereign powers of the States, rather than to destroy them. *Id.* (quoting *Gregory*, 501 U.S. at 460-61).

16. *Yeskey*, 118 S.Ct. at 1954. The Court noted that "it is difficult to imagine an activity in which a State has a stronger interest." *Id.* (quoting Preiser v. Rodriguez, 411 U.S. 475, 491 (1973)).

17. *Yeskey*, 118 S.Ct. at 1954. The Court reasoned that traditional and essential state functions, such as establishing the qualifications of state government officials or even exercising control over the management of state prisons, are subject to the plain statement rule of *Gregory*. *Id.*

18. *Yeskey*, 118 S.Ct. at 1954 (citing 29 U.S.C. § 621 et seq. (1994)).

19. *Id.* The Court made this assumption without deciding specifically that the rule does govern application of the statute to the administration of state prisons. *Id.*

20. *Id.* The Court found that the requirement of the rule was amply met because the language of the ADA "unmistakably" included such coverage. *Id.*

21. *Id.* Although that statute "plainly covered state employees, it contained an exception for 'appointee[s] on the policymaking level.'" *Id.* (quoting Gregory v. Ashcroft, 501 U.S. 452, 467 (1991)).

22. *Id.* Here, the ADA's coverage of state prisons was free from doubt because the statute plainly afforded coverage to state institutions without any exception. *Id.*

23. *Yeskey*, 118 S.Ct. At 1954. Title II of the ADA states: "[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 (1994). Public entity includes "any department, agency, special purpose district, or

The Court then considered the Department's contention that the language of the statute, specifically the phrase "benefits of the services, programs, or activities of a public entity," is ambiguous because state prisoners are not afforded the "benefits" of "programs, services, or activities" as those terms are ordinarily understood.[24] Noting that modern prison inmates are afforded and benefitted by numerous "services, programs, or activities," the Court rejected the Department's contention.[25] Moreover, the Court noted that the Motivational Boot Camp Act[26] alluded to the camp as a "program."[27] As a result, the Court concluded that the language of the ADA did not provide a basis for exempting state prisons from the class of covered public entities.[28]

Examining the definition of the term "qualified individual with a disability" as set forth in the statute, the Court also rejected the Department's argument that ambiguity existed as to whether the term applied to state prisoners.[29] The Court noted that the words "eligibility" and "participation," as used in the statutory definition of the term "qualified individual with a disability," did not connote voluntariness, as the Department argued.[30] Furthermore, even if the words did connote voluntariness, the Court opined that it would be incorrect to hold that all prison "services, programs, or activities" are not within the coverage afforded by the ADA because not all

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other instrumentality of a State or States or local government." 42 U.S.C. § 12131(1)(B) (1994).

24. *Yeskey*, 118 S.Ct. at 1955 (citing 42 U.S.C § 12132 (1994)).

25. *Id.* The Court noted that "prisons provide inmates with many recreational 'activities,' medical 'services,' and educational and vocational 'programs' " that benefit prisoners. *Id.* (citing Block v. Rutherford, 468 U.S. 576, 580 (1984) (reference to "contact visitation program"); Hudson v. Palmer, 468 U.S. 517, 552 (1984) (discussion of "rehabilitative programs and services"); Olim v. Wakinekona, 461 U.S. 238, 246 (1983) (reference to "appropriate correctional programs for all offenders")).

26. 61 PA. CONS. STAT. ANN. §' 1121-1129 (West Supp. 1998).

27. *Yeskey*, 118 S.Ct. at 1955 (citing 61 PA. CONS. STAT. ANN. § 1123 (West Supp. 1998)).

28. *Id.*

29. *Id.* The statute defines the term "qualified individual with a disability" to include any disabled individual "who, with or without reasonable modifications to rules, policies, or practices, the removal or architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity." 42 U.S.C § 12132(2) (1994).

30. *Yeskey*, 118 S.Ct. at 1955. Using the example of a drug addict convicted of possession who was required to participate in a drug treatment program for which only addicts were eligible, the Court stated that "[w]hile 'eligible' individuals 'participate' voluntarily in many programs, services, and activities, there are others for which they are eligible in which 'participation' is mandatory." *Id.*

such services are mandatory.[31] Moreover, the Court noted that the Motivational Boot Camp Act itself provided that participation in the program was voluntary.[32]

Responding to the Department's final argument, the Court stated that the fact that a statute, such as the ADA, could be applied in situations not expressly envisioned by Congress was an example of the statute's "breadth" rather than ambiguity.[33] In concluding that the text of the statute was unambiguous, the Court also rejected the Department's request to follow the doctrine of constitutional doubt and prohibit coverage of the ADA to state prison inmates.[34] The Court noted that the doctrine, as well as the invocation of the statute's title, becomes a part of statutory interpretation only where the statute affords multiple constructions.[35] Therefore, the Court held that the ADA affords coverage to state prison inmates and affirmed the decision of the Third Circuit Court of Appeals.[36]

Before the passage of the ADA, individuals with disabilities lacked comprehensive protection against discrimination.[37] For example, the Rehabilitation Act of 1973 prohibited discrimination on the basis of disability only by public programs and agencies that receive federal funding.[38] In addition, other federal statutes failed to establish a general prohibition of discrimination against disabled

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31. *Id.* For example, a prison law library was a service afforded to prisoners. *Id.*

32. *Id.* The Motivational Boot Camp Act provides that "an eligible inmate may make an application to the motivational boot camp selection committee for permission to participate in the motivational boot camp program." 61 PA. CONS. STAT. ANN. § 1126(a) (West Supp. 1998).

33. *Yeskey*, 118 S.Ct. at 1956. The Department argued that the ADA's statement of findings and purpose at 42 U.S.C. § 12101 failed to mention both prisons and prisoners and that such failure proved that Congress did not anticipate application to state prison inmates. *Id.* at 1955. The Court responded that such an assertion was questionable, but even assuming such to be correct, it was irrelevant in a situation of unambiguous statutory text. *Id.* at 1956.

34. *Id.* The doctrine of constitutional doubt requires that the Court interpret statutes with the goal of avoiding "grave and doubtful constitutional questions." *Id.* (citing United States *ex rel.* Attorney General v. Delaware & Hudson Co., 213 U.S. 366, 408 (1909)).

35. *Id.* The doctrine of constitutional doubt "enters in only where a statute is susceptible of two constructions." *Id.* (quoting United States *ex rel.* Attorney General v. Delaware & Hudson Co., 213 U.S. 366, 408 (1909)). Furthermore, "[t]he title of a statute . . . cannot limit the plain meaning of the text . . . [it is] of use only when [it] shed[s] light on some ambiguous word or phrase." *Id.* (quoting Bhd. of R.R. Trainmen v. Baltimore & Ohio R.R. Co., 331 U.S. 519, 528-29 (1947)).

36. *Id.*

37. H.R. REP. No. 101-485, pt. 2, at 48 (1990), *reprinted in* 1990 U.S.C.C.A.N. 303, 330.

38. 29 U.S.C. §§ 790-794 (1994). Section 504 of the Act states in part, "[n]o otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ." 29 U.S.C. § 794 (1994).

persons.[39] Responding to the inadequate protection provided by these existing statutes, Congress expanded coverage by enacting the ADA.[40]

The main purpose of the ADA was to "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."[41] As a result, the ADA extended protection to individuals with disabilities by prohibiting discrimination on the basis of disability by state and local governments,[42] public and private employers,[43] private businesses that provide goods and services to the public,[44] and transportation systems.[45] Specifically, Title II of the ADA prohibited a "public entity" from discriminating against a "qualified individual with a disability."[46] Because the language of Title II afforded disabled individuals access to programs and services provided by

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39. Statutes prohibiting discrimination against people with disabilities include the Fair Housing Amendments Act, 42 U.S.C. § 3601-3631 (1988) (prohibiting discrimination on the basis of disability in the sale or rental of housing), the Architectural Barriers Act, 42 U.S.C. § 4151-4157 (1994) (requiring that buildings receiving federal financial assistance provide access to those buildings), and Individuals with Disabilities Education Act, 20 U.S.C. § 1400-1491 (1994) (mandating that services related to special education be designed to satisfy the needs related to disabled children).

40. H.R. REP. No. 101-485, at 47-48 (1990), *reprinted in* 1990 U.S.C.C.A.N. 303, 330.

41. 42 U.S.C. § 12101(b)(1) (1994). Other purposes include providing "clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities," 42 U.S.C. § 12101(b)(2), ensuring that the "Federal Government plays a central role in enforcing the standards established . . . on behalf of individuals with disabilities," 42 U.S.C. § 12101(b)(3), and invoking the "sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities. 42 U.S.C. § 12101(b)(4).

42. 42 U.S.C. § 12131.

43. 42 U.S.C. § 12111.

44. 42 U.S.C. § 12182.

45. 42 U.S.C. § 12161.

46. 42 U.S.C § 12131. Title II states that "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. A "public entity" is defined broadly to include "any State or local government"and "any department, agency, special purpose district, or other instrumentality of a State or States or local government.' 42 U.S.C. § 12131(1). Under Title II, a "qualified individual" is an "individual 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 the receipt of services or the participation in programs or activities provided by a public entity." 42 U.S.C. § 12131(2). The ADA defines a "disability" to include "a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment." 42 U.S.C. § 12102(2).

state and local governments,[47] prisoners who sought relief under the ADA have typically brought suit under Title II.[48]

The issue of whether Title II of the ADA covered inmates in state prisons was first presented on a motion for summary judgment in *Outlaw v. City of Dothan, Alabama.*[49] Examining the language of Title II, the district court concluded that the city of Dothan was a "public entity" and that all of the city jail's facilities constituted a "service, program or activity" of the public entity, as defined by Title II.[50] The court held that the ADA required the City to make its jail's facilities accessible to prisoners with disabilities.[51] Subsequently, other district courts allowed state prison inmates to seek relief under Title II of the ADA.[52]

In 1995 the United States Court of Appeals for the Fourth Circuit refused to extend relief under the ADA to an inmate who was denied accommodations while incarcerated in a state prison.[53] The *Torcasio* Court identified the management of state prisons as a core state function that was subject to the plain statement rule set forth in *Gregory.*[54] Examining the language of Title II of the ADA,

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47. 42 U.S.C. § 12131.

48. *See, e.g.*, Amos v. Maryland Department of Public Safety and Correctional Services, 126 F.3d 589 (4th Cir. 1997), *vacated and remanded*, 118 S.Ct. 2339 (1998) (thirteen disabled inmates sought relief under Title II against prison officials for violation ADA). However, suits concerning prison employment have been brought under Title I. *See, e.g.*, White v. Colorado, 82 F.3d 364, 367 (10th Cir. 1996) (dismissing injured prisoner's claim that Title I afforded relief for violation of ADA).

49. No. CV-92-A-1219-S, 1993 WL 735802 (M.D. Ala. Apr. 27, 1993). While serving a twelve day sentence in the Dothan Municipal Jail, Outlaw requested the use of a plastic chair when showering because he must remove his artificial leg in order to shower. *Id.* at *2. The jail refused his request, and Outlaw filed suit alleging that the City of Dothan had violated his rights under Title II of the ADA. *Id.*

50. *Outlaw*, 1993 WL 735802, at *4.

51. *Id.* The Court noted that whether the City did refuse to grant such accomodation was a material issue of fact. *Id.*

52. Noland v. Wheatley, 835 F.Supp 476,483 (N.D. Ind. 1993) (motion to dismiss semi-quadriplegic inmate's claim for denial of access to sufficient care in violation of the ADA denied); Clarkson v. Coughlin, 898 F.Supp 1019, 1044 (S.D.N.Y. 1995) (prison's refusal to grant reasonable accommodations to hearing-impaired inmates constituted a violation of the ADA); Rewolinski v. Morgan, 896 F.Supp. 879, 881 (E.D.Wis. 1995) (a deaf inmate's allegations that he was being discriminated against and denied access to prison services and programs because of his disability in violation of the ADA were held not frivolous); Dean v. Knowles, 912 F.Supp. 519, 521 (S.D. Fla. 1996) (a material issue of fact existed as to whether HIV positive inmate suffered discrimination on account of his disability in violation of the ADA).

53. Torcasio v. Murray, 57 F.3d 1340 (4th Cir. 1995). An obese inmate brought action against prison officials of the Virginia Department of Corrections for failure to modify his cell, bathroom facilities, and recreational areas to accommodate his obese condition. *Id.* at 1342.

54. *Torcasio*, 57 F.3d at 1344-1346. The plain statement rule is a canon of statutory construction providing that a court shall interpret a statute to preserve the sovereign powers

the court declined to adopt the inmate's assertion that the "broad, non-specific language" of Title II clearly established that the ADA covers state prisons.[55] Noting that the terms "eligible" and "participate," as used in the statutory definition of a "qualified individual with a disability," connote voluntariness on the part of such an individual, the court reasoned that state prison inmates were not capable of fulfilling the essential eligibility requirements of the statute.[56] Therefore, the Court concluded that the ADA neither covered state prisons nor extended protection to state prisoners.[57]

In contrast to the Fourth Circuit's reasoning, other circuit courts subsequently held the ADA applicable to inmates in state prisons.[58] The Seventh Circuit extended the statute's coverage to state prisoners by refusing to create an exception to the application of

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of the states unless there exists an "unmistakably clear" expression of intent to "alter the usual constitutional balance between the States and the Federal Government." Gregory v. Ashcroft, 501 U.S. 452, 460-61 (1991).

55. *Torcasio*, 57 F.3d at 1346. "Congress must speak unequivocally before we will conclude that it has clearly subjected state prisons to its enactments." *Id.*

56. *Id.* at 1347. The terms "eligible" and "participate" "do not bring to mind prisoners who are being held against their will." *Id.*

57. *Id.* The Court reached this conclusion on the basis that it was not clearly established that the ADA applied to state prisons. *Id.* at 1346, 1352. Relying on *Torcasio* and adopting the Court's reasoning, two district courts and one circuit court subsequently held the ADA inapplicable in the state prison context. Staples v. Va. Dep't of Corrections, 904 F.Supp. 487, 490 (E.D.Va. 1995) (granting summary judgment against a paraplegic inmate alleging violation of rights under ADA); *Pierce v. King*, 918 F.Supp. 932, 938 (E.D.N.C. 1996) (granting summary judgment against state inmates who were displeased with their prison work assignments), *aff'd*, 131 F.3d 136 (4th Cir. 1997), *vacated and remanded*, —S.Ct. —, No. 97-8592, 1998 WL 174842 (Oct. 05, 1998); White v. Colorado, 82 F.3d 364, 367 (10th Cir. 1996) (holding that state prisons do not engage in the programs or activities governed by the ADA). *See also*, Gorman v. Batch, 925 F.Supp. 653, 655-56 (W.D.Mo. 1996) (holding that a wheelchair-bound arrestee who was injured when being transported in police van that was not equipped with wheelchair restraints was not a "qualified individual" under the ADA), *appeal dismissed*, 123 F.3d 1126 (8th Cir. 1997), *aff'd in part, rev'd in part*, 152 F.3d 907 (8th Cir. 1998).

58. Bullock v. Gomez, 929 F.Supp. 1299, 1303 (C.D. Cal. 1996) (denying motion for summary judgment against HIV-positive inmate); Niece v. Fitzner, 941 F.Supp. 1497, 1505 (E.D. Mich. 1996) (denying motion to dismiss prisoner's deaf fiancé's ADA's claims); Duffy v. Riveland, 98 F.3d 447, 455 (9th Cir. 1996) (reversing summary judgment against a deaf inmate who was denied an interpreter at prison disciplinary hearings); Kaufman v. Carter, 952 F.Supp. 520, 529-31 (W.D. Mich. 1996) (denying motion to dismiss a bilateral amputee inmate's claim for a violation of the ADA); Carty v. Farrely, 957 F.Supp. 727, 741 (D.V.I. 1997) (holding that prison officials violated ADA by placing an inmate who used a cane among the care of mentally-ill inmates); Saunders v. Horn, 960 F.Supp. 893, 901 (E.D.Pa. 1997) (denying a motion to dismiss the claim of an inmate who was denied orthopedic shoes and braces); Herndon v. Johnson, 970 F.Supp. 703, 703-04 (E.D.Ark. 1997) (denying a motion for partial judgment against an inmate with a fused spine who was denied assistive devices).

the statute.[59] After examining the language of Title II, the *Crawford* Court applied the *Gregory* plain statement rule.[60] Noting that prison administration was a core function of state governments, the court reasoned that because the statutory definition of "public entity" included every agency of state or local government, Congress clearly made the ADA applicable to state prisons.[61] The court concluded that state prisons are prohibited from discriminating against disabled prisoners on account of disability because the plain statement rule does not prevent application of the ADA to state prisons.[62]

The Fourth Circuit continued to disagree with its sister circuits and extended *Torcasio* by subsequently holding that the ADA did not apply to thirteen disabled inmates who brought suit against prison officials for violation of Title II.[63] After evaluating the decisions of the other circuits, the Fourth Circuit analyzed that language of Title II.[64] The court held that only where Congress has

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59. Crawford v. Ind. Dep't of Corrections, 115 F.3d 481, 483-84 (7th Cir. 1997). Crawford, a former state prisoner, sought damages from the Indiana prison administration under Title II of the ADA. *Id.* at 483. On the ground that the ADA was inapplicable to prison inmates, the district court dismissed the suit on the pleadings. *Id.* The state conceded that the statute was applicable to prisons, but asked the court to make an exception to such application by not extending protection to prisoners. *Id.* at 484.

60. *Crawford*, 115 F.3d at 485. The court attacked the argument that Congress cannot invade an "essential state function, such as prison administration, without a clear statement of its intent to invade it." *Id.*

61. *Id.* The court cautioned thatmaybe there is an inner core of sovereign functions, such as the balance of power between governor and state legislature, that if somehow imperiled by the ADA would be protected by the [plain] statement rule . . . but the mere provision of public services, such as schools and prisons, is not within that inner core. *Id.*

62. *Id.* at 485-86. The Ninth Circuit followed the reasoning of the *Crawford* Court in permitting application of the ADA to state prisoners. Armstrong v. Wilson, 124 F.3d 1019, 1024 (9th Cir. 1997); Clark v. California, 123 F.3d 1267, 1271 (9th Cir. 1997). In *Armstrong*, the court noted that whether inmates "benefit" from prison programs was "irrelevant to the issue of whether state prisons may exclude disabled inmates from programs they provide to others or discriminate against disabled inmates in the various aspects of prison life." 124 F.3d at 1024.

63. Amos v. Ma. Dep't of Public Safety and Correctional Services, 126 F.3d 589 (4th Cir. 1997), *vacated and remanded*, 118 S.Ct. 2339 (1998). Inmates with disabilities claimed that prison officials: (1) denied them the opportunity to participate in work release and pre-release programs because of their disabilities, resulting in a denial of benefits, training, and rehabilitation, and in longer sentences; (2) denied them equal access to bathrooms, athletic facilities, the "honor tier," and food services at [the prison] because of their disabilities; (3) denied them adequate medical attention and hygienic facilities; (4) failed to make reasonable accommodations to ensure the safety of disabled inmates; and (5) assigned them to [the prison] because of their disabilities, thereby depriving them of the opportunity to serve their sentences at available facilities closer to their homes. *Id.* at 591. Relying on *Torcasio*, the district court granted summary judgment for the prison officials. *Id.*

64. *Amos*, 126 F.3d at 594-96. The court noted that "nothing in the opinions of those

spoken with unmistakably clear intent would it invade the sovereign powers of the states, including the power to manage state prisons.[65] To avoid improperly altering the balance between the states and the federal government, the court relied on the plain statement rule to prevent application of the ADA to state prisons.[66]

The history of the ADA's application in the state prison context reveals that the federal courts have applied the *Gregory* plain statement rule inconsistently.[67] In *Yeskey*, the Supreme Court failed to decide whether the rule governed the application of the ADA to state prisoners. Instead, the Court assumed that the *Gregory* rule applied to the issue at bar and held that the requirement of the rule was satisfied.[68] The Court chose not to clarify the application of the rule. However, the Court provided an appropriate analysis that courts should follow when construing the language of a federal statute amidst a core state function, such as the management of state prisons.

When the plain statement rule is invoked, courts must defer to the sovereign interests of the states. Demonstrating this initial consideration, the Court recognized the strong interest of state control over the operations of state prisons.[69] The Court conceded that such an exercise was subject to the plain statement rule without expressly stating that the rule applied. Moreover, where sovereign interests are at stake, the language of the statute must clearly encompass the state function at issue. If the statutory

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courts holding to the contrary even begins to refute the careful analysis we undertook in *Torcasio*." *Id.* at 591.

65. *Id.* at 594-95. The court stated that its reluctance in *Torcasio* to extend the coverage of the statute to state prisons and prisoners "absent a far clearer expression of intent was grounded on the ordinary rule of statutory construction that Congress must make its intention to alter the constitutional balance between the States and the Federal government unmistakably clear in the statute's language." *Id.* at 594. "It cannot be disputed that the management of state prisons is a core state function." *Id.* at 595 (citing Procunier v. Martinez, 416 U.S. 396, 412 (1974)).

66. *Amos*, 126 F.3d at 596. The court held that it will not conclude that Congress has "clearly subjected state prisons to its enactment" absent unequivocal intent "because the management of state prisons implicates decisions of the most fundamental sort for a sovereign entity." *Id.* (citing Gregory v. Ashcroft, 501 U.S. 452, 460 (1991)).

67. *Compare* Crawford v. Ind. Dep't of Corrections, 115 F.3d 481, 485 (7th Cir. 1997), *with* Amos v. Ma. Dep't of Public Safety and Correctional Services, 126 F.3d 589, 596 (4th Cir. 1997), *vacated and remanded*, 118 S.Ct. 2339 (1998).

68. Pa. Dep't of Corrections v. Yeskey, 118 S.Ct. 1952, 1954 (1998). "Assuming, without deciding, that the plain statement rule does govern application of the ADA to the administration of state prisons, we think the requirement of the rule is amply met: the statute's language unmistakeably includes State prisons and prisoners within its coverage." *Id.*

69. *Yeskey*, 118 S.Ct. at 1954.

language does not clearly cover the function, then the statute will not satisfy the requirement of the rule.[70]

The Court made its determination by examining the four corners of the statutory text. Rather than exploring the legislative history of the statute, the Court limited its analysis to the relevant statutory language and concluded that the unambiguous language included coverage of state prisons and prisoners.[71] However, in the event that there is an ambiguous exception to the statute's coverage that concerns the same or a similar state function, the statute will fail to satisfy the rule.[72] Therefore, unless an existing exception makes it unambiguously clear that the state function is excluded from coverage, a finding that the plain statement rule is satisfied will not be precluded.

Even if the plain statement rule should not govern the application of the ADA to state prisoners, the *Yeskey* Court nevertheless correctly decided that Title II of the ADA covers inmates in state prisons. By enacting the ADA Congress sought to clearly and comprehensively eliminate discrimination against individuals with disabilities. Excluding state prisons and their inmates from the protection of the ADA would create an exception not found within the language of the statute. Moreover, such an exemption from coverage would be inconsistent with Congress' primary purpose in enacting the ADA.

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70. *Id.* Because the language of the ADA "unmistakably" included coverage of state prisons and prisoners, the Court held that the requirement of the rule is fulfilled. *Id.*

71. *Id.*

72. *Id.* at 1955-56. The Court rejected the Department's contention that an ambiguity existed in the language of the statute. *Id.*