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U.S. Supreme Court takes accessibility to a new level: Renewed Hope for the Americans with Disabilities Act

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The U.S. Supreme Court Takes Accessibility to a New Level

Monday, May 17, 2004, is a day historians will write about in the annals of civil rights. As the country observed the 50th anniversary of Brown v. Board of Education of Topeka, Kansas, the Supreme Court delivered another important civil rights victory in Tennessee v. Lane (*The New York Times Magazine*, May 30, 2004).

George Lane, a paraplegic, crawled up two flights of stairs at Polk County Courthouse in Tennessee, due to lack of an elevator. From accounts, two law enforcement officers and a county official stood at the top and laughed. When Lane returned later in the day for a second hearing, he refused to crawl up the stairs again. Moreover, he was unwilling to accept an offer to be carried, because he was afraid of being intentionally dropped.

Lane also declined a judge's offer to move the hearing to a ground-floor room, insisting he wanted to be treated like everyone else. He was arrested and jailed for failure to appear in court. In August of 1998, Lane sued the state for $100,000 for what he claimed was humiliating treatment violating the Americans with Disabilities Act (ADA) (*Knoxville News-Sentinel*, January 10, 2004).

A second plaintiff in the case, Beverly Jones, a certified court stenographer, also alleged she had not been able to gain access to many of the courtrooms in Tennessee because courthouses are not wheelchair accessible. To support herself and her two children, Jones risked her own safety by allowing herself to be carried up stairs at various of the state's courthouses. Two or three people at a time would carry Jones to an upstairs courtroom. To accommodate her once during a bathroom break, a judge picked her up and sat her down in a restroom. Jones noted at times she was literally a spectacle.

Because of being on public display year after year, Jones became less tolerant. She finally sought damages and relief for $250,000 for being forced to endure repeated humiliations (*The New York Times*, January 11, 2004).

For 34 years, Tennessee had a public building accessibility law on its books, but the state never developed a mechanism of enforcement (*All Things Considered*, National Public Radio, January 13, 2004). The underlying lawsuit took aim at one-third of the courthouses in Tennessee that are not accessible (*Morning Edition*, National Public Radio, May 18, 2004). The issue is the 1990 ADA's power to require state and local governments to make public services and buildings, such as courthouses, accessible to individuals with disabilities. Further, part of the argument was whether private citizens could sue state governments over alleged violations of ADA, and if states owed financial damages to individuals with disabilities who cannot access courthouse facilities (*The Wall Street Journal*, May 18, 2004).

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On May 17, 2004, the U.S. Supreme Court ruled (5-4) state governments could be sued for monetary damages when failing to provide reasonable access to public services under Title II of ADA. The ruling marks a rare departure from the high court's pattern of favoring states' rights and limiting federal mandates.

Three years ago, the U.S. Supreme Court ruled states could not be sued for monetary damages under Title I, a portion of ADA dealing with employment and workplace biases. However, in the Tennessee v. Lane decision, justices emphasized access to courts affects an array of constitutional guarantees, including the right to be present at all stages of a trial, and have a jury from a fair cross section of the community. Moreover, when ADA was being drafted, Congress compiled more evidence of bias in state services than it did for job discrimination (*USA Today*, May 18, 2004).

Does the court decision only apply to accessing courthouses and judicial services? Should the Lane decision impact access to other programs and services that the state sponsors, such as obtaining a marriage license, paying property taxes, and voting (*Supreme Court Watch*, The News Hour with Jim Lehrer, Public Broadcasting System, May 17, 2004)? What about access to other state public buildings, such as state-run ice hockey rinks, parks, museum exhibits, and performing arts centers?

Should owners of commercial venues, such as golf courses, swimming pools, and amusement parks be concerned? Access to places where fundamental rights are exercised opens the possibilities for more litigation in years ahead and will test the full extent of ADA's reach.

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