

9/2/16

20-7233  
In the Supreme Court of the United States

**ORIGINAL**

John Dan Bumphus, Jr., pro se, Petitioner

v.

UniQue Personnel Consultants, Inc., et al., Respondents



**ON PETITION FOR A WRIT OF  
CERTIORARI  
TO THE UNITED STATES COURT OF  
APPEALS FOR THE SEVENTH CIRCUIT**

**No. 19-2621**

**CORRECTED PRO SE PETITION FOR WRIT OF CERTIORARI,  
WITH AMENDED APPENDIX, AND AMENDED "AFFIDAVIT OR DECLARATION IN  
SUPPORT OF MOTION TO PROCEED "IN FORMA PAUPERIS"**

John Dan Bumphus, Jr., pro se,

*Plaintiff*

221 South Myrtle

Edwardsville, IL 62025-1510

UniQue Personnel Consultants, Inc.

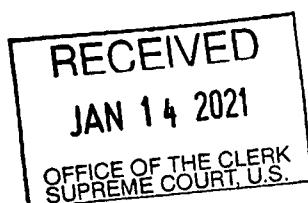
*Defendant*

217 W. Clay

Troy, IL 62294-1162

**Question Presented for Review**

Did the United States Court of Appeals for the Seventh Circuit abuse its jurisdictional standard of review, by allowing a District Court judge to negate the total realm of protected act ADA rights for a reported, medically diagnosed and documented, posttraumatic stress disorder (PTSD) patient's disability, by making the unsubstantiated declarative ruling that the aforementioned PTSD "wasn't permanent"?



### List of Parties to Proceeding

1. Defendants-
  - a. UniQue Personnel Consultants, Inc., 217 W. Clay, Troy, IL 62294-1162.
  - b. Synergy Coverage Solutions, L.L.C., 217 South Tyron Street, Charlotte, NC 28202.
  - c. Hennessy & Roach, P.C., 140 S. Dearborn, 7<sup>th</sup> Floor, Chicago, IL 60603.
  - d. Attorney Jennifer Katherine Yates-Weller, partner with Hennessy & Roach, P.C., 415 North 10<sup>th</sup> Street, Suite 200, St. Louis, Mo 63101.
  - e. Attorney Andrew G. Toennies, of Lashly & Baer, P.C., 714 Locust St., St. Louis, MO 63101.
2. Plaintiff-
  - a. John Dan Bumphus, Jr., resides at 221 South Myrtle, Edwardsville, IL 62025-1510.

### Corporate Disclosure Statement

1. Disclose relationships of plaintiff to institutions involved in petition.
2. Disclose relationships of defendant to institutions involved in petition.
  - (a) Defendant Katherine Yates-Weller was a partner in the law firm of Defendant Hennessy & Roach, P.C.

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### **Table of Authorities**

### **POINTS AND AUTHORITIES**

1. Title 42 §12101-§12111, of the Americans with Disabilities Act (ADA) of 1990 as Amended.
2. Title 42 U.S.C. §12203 (b), the “interference provision” of the Americans with Disabilities Act (ADA) of 1990 as Amended.
3. *Hendricks-Robinson v. Excel Corp.*, 154 F.3d 685, 693 (7<sup>th</sup> Cir. 1998).
4. *E.E.O.C. v. Sears, Roebuck & Co.*, 417 F.3d 789, 805 (7<sup>th</sup> Cir. 2005).

### **Constitutional Provisions and Statutes**

#### **Constitutional Provisions**

28 U.S.C. §1331 United States Constitutional Law

28 U.S. Code § 1331. Federal question-

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

In United States law, federal question jurisdiction is the subject-matter jurisdiction of United States federal courts to hear a civil case because the plaintiff has alleged a violation of the United States Constitution, federal law, or a treaty to which the United States is a party.

## **Statutes**

### **Title 42 SEC. 12101. *[Section 2]***

#### **(a) Findings. - The Congress finds that-**

**(1)** physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;

### **Title 42 Sec. 12102. Definition of disability-**

As used in this chapter:

#### **(1) Disability**

The term "disability" means, with respect to an individual

- (A)** A physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B)** a record of such an impairment; or
- (C)** being regarded as having such an impairment

## **AMENDED APPENDIX IN PAPER FORMAT**

**Appendix "A"-Petitioner John Dan Bumphus Jr.'s March 22, 2016 "EMPLOYMENT DISCRIMINATION COMPLAINT".**

**Appendix "A1"- "DEFENDANT UNIQUE PERSONNEL CONSULTANTS' AMENDED RESPONSE TO REQUEST #6 OF PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION", Case 3:16-cv-00312-SMY-SCW Document 83 Filed January 12, 2017, Pages 1 thru 3, Page ID #443 thru #445.**

**Appendix "B"-United States Federal District Court for the Southern District of Illinois Judge Staci Yandle's March 30, 2018, "MEMORANDUM AND ORDER".**

**Appendix "C"-United States Court of Appeals for the Seventh Circuit's April 27, 2018, "ORDER".**

**Appendix "D"- United States Federal District Court for the Southern District of Illinois Judge Staci Yandle's August 30, 2018, "MEMORANDUM AND ORDER".**

**Appendix "D2"- United States Federal District Court for the Southern District of Illinois' August 30, 2018, "JUDGMENT IN A CIVIL ACTION".**

**Appendix "E"- Petitioner John Dan Bumphus Jr.'s December 6, 2018, "DISABLED PRO SE PLAINTIFF'S RULE 60 MOTION FOR RELIEF FROM FINAL JUDGMENT AND ORDER".**

Appendix “F”- United States Federal District Court for the Southern District of Illinois

Judge Staci Yandle’s August 9, 2019, MEMORANDUM AND ORDER”.

Appendix “G”- United States Court of Appeals for the Seventh Circuit’s April 24, 2020

“ORDER”.

Appendix “H”- United States Court of Appeals for the Seventh Circuit’s May 20, 2020

“ORDER”.

#### **STATEMENT OF THE CASE**

On June 11, 2015, Defendant UniQue Personnel Consultants, Inc., hired for employment the already Posttraumatic Stress Disorder (PTSD)-disabled American citizen pro se Plaintiff John Dan Bumphus, Jr., who, since 1995, 20 years before the 2015 date of his hiring, during the time frame of his hiring and employment, and still today, has been covered, and protected by, Title 42 §12101-§12111, of the Americans with Disabilities Act (ADA) of 1990 as Amended, due to a permanent, Social Security Administration-acknowledged, Medicare Insurance-covered, DSM Code-Description F43.10- posttraumatic stress disorder (PTSD) disability, which includes coverage by the “interference” provision with respect to his ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation provision, in protecting any individual who is subject to coercion, threats, intimidation, or interference with respect to any of his ADA rights. Title I of the ADA prohibits employers with 15 or more employees (including religious entities) from disability discriminating in hiring, promotions, training, and other privileges of employment. It also forbids asking questions about an applicant's disability. Title I also requires that employers make a reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship.

Under the ADA, disability is generally defined as "a physical or mental impairment that substantially limits one or more major life activities." The Equal Employment Opportunity Commission (EEOC) has clarified this as its ADA enforcement guide defines mental impairment as "any mental or psychological disorder" and makes specific reference to PTSD. Coverage of PTSD under the ADA was also confirmed by an EEOC opinion letter from 2008.

On the June 21, 2015, very first night of his employment, the Plaintiff, officially, and legally, began the ADA interactive accommodation process, under 42 U.S.C. § 12112 (a), by notifying the employer Defendant UniQue Personnel of his having a bending and lifting impairment, due to an L4-5 region 2006 spinal fusion surgery; "at that point, an employer's liability is triggered for failure to provide accommodations." *Hendricks-Robinson v. Excel Corp.*, 154 F.3d 685, 693 (7<sup>th</sup> Cir. 1998) (internal quotation marks omitted). After an employee has disclosed that he has a disability, the Constitutional Law ADA requires an employer to "engage with the employee in an 'interactive process' to determine the appropriate accommodation under the circumstances." *E.E.O.C. v. Sears, Roebuck & Co.*, 417 F.3d 789, 805 (7<sup>th</sup> Cir. 2005) (quoting *Gile v. United Airlines, Inc.*, (7<sup>th</sup> Cir. 2000)).

The United States Court of Appeals for the Seventh Circuit is a federal court with appellate jurisdiction over the courts in the Southern District of Illinois. Appellate jurisdiction is the power of an appellate court to review, amend and overrule decisions of a trial court.

United States Federal District Judge for the Southern District of Illinois Staci Yandle abused her judicial discretion by writing, in an August 30, 2018 Memorandum and Order (Document 137) Dismissal which negated the Title 42 §12101-§12111, and §12303(b) of the ADA rights of pro se PTSD-disabled Plaintiff Bumphus, the erroneous contradiction that, "Bumphus does not contend that he had a record of an impairment or was regarded as having an impairment. Thus, the question is whether he actually had a physical or mental impairment that substantially limited a major life activity under the ADA's first definition of disability.", while accurately the Plaintiff Bumphus, in the '(IV. Facts in Support of Claim (1.))' section of his original March 22, 2016-filed Case No.: 16-312-SMY-DGW pro se ADA complaint, directly wrote of "being a disabled person living with the history of having had the generalized anxiety disorder symptoms of a Post-Traumatic Stress Disorder (PTSD)".

Title 42 U.S.C. §12203(b) ADA “interference” provision cases, among all of the other required to be corrected omissions.

Despite the cumulative, factual and procedural shortcomings, the 7<sup>th</sup> Circuit, upon review, allowed Judge Yandle’s errant ruling in negation of the protected act ADA rights for the PTSD-disabled Plaintiff Bumphus to stand.

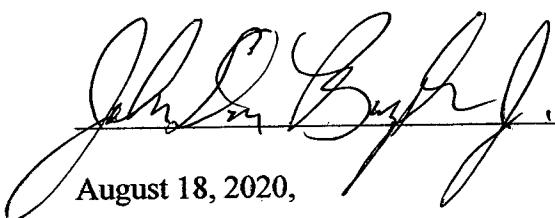
### **REASONS FOR GRANTING THE PETITION**

Constitutional Law such the ADA must always be acknowledged and pursued, particularly when dealing with pro se PTSD disabled litigants.

### **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,



August 18, 2020,

October 26, 2020, and

January 15, 2021