

In the Supreme Court of the United States

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 RULE 44 PETITION FOR REHEARING DECISION 20-7233 DENYING
PETITION FOR WRIT OF CERTIORARI**

John Dan Bumphus, Jr., pro se,

Plaintiff

221 South Myrtle

Edwardsville, IL 62025-1510

UniQue Personnel Consultants, Inc.

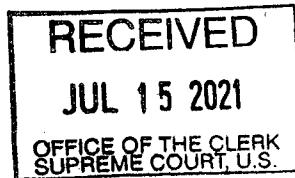
Defendant

217 W. Clay

Troy, IL 62294-1162

Question Presented for Review in 20-7233

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"?



June 30, 2021

To the Court:

WHY THE SUPREME COURT'S ORDER DENYING THE PETITION FOR
WRIT OF CERTIORARI DESERVES A REHEARING

The intervening circumstances of substantial and controlling effect under Rule 44, which are the distinct grounds of this corrected petition for rehearing, are as follows:

1. After District Court Judge Staci M. Yandle ruled (Document 137, Page ID #1092, Filed 08/30/18) that “Bumphus does not contend that he had a record of an impairment or was regarded as having an impairment.”, I realized that in my (Appendix “A”) original, March 22, 2016-filed “EMPLOYMENT DISCRIMINATION COMPLAINT” I wrote, and entered into the record on Page 7, of my ‘IV. FACTS IN SUPPORT OF CLAIM’, which was found plausible, and deemed ready for U.S. Marshall’s Service to all Defendants by Judge Yandle on April 14, 2016, that “The Plaintiff has been, years before his June 11, 2015 initial interview for employment began at UniQue Personnel Consultants of Glen Carbon, Illinois, officially designated and acknowledged, by way of the Social Security Administration, to be a disabled person living with the history of having had the generalized anxiety disorder psychological symptoms of a Post-Traumatic Stress Disorder (PTSD).” This negligent contradiction by Judge Yandle thereby became an intervening circumstance of substantial controlling effect, which served to eliminate, and negate, my Constitutionally protected act private rights of action under the Americans with Disabilities Act (ADA), under Section 504, and of acquiring

compensatory damages for the Intentional Infliction of Emotional Distress, which are available to me under Illinois State law.

2. However, Judge Yandle, even after finding my original complaint 'FACTS IN SUPPORT OF CLAIM' pronouncement of Social Security Disability plausible enough for serving to the Defendants, did not analyze the evidence presented therein to be sufficient evidence of my then, and now still current, Social Security Administration implemented, Medicare Insurance covered and benefitted, PTSD disability in her (Document 137, Page ID #1092, Filed 08/30/18) ruling. In fact, on the next page, Judge Yandle then doubled-down on her ignoring of my 'FACTS IN SUPPORT OF CLAIM' statement by reiterating and broadening her previous page disclaimer (Document 137, Page ID #1093, Filed 08/30/18) by again ruling, "there is insufficient evidence in the record establishing that Bumphus is disabled within the meaning of the ADA." Again, this contradiction by Judge Yandle also is an intervening circumstance of substantial controlling effect, which served to eliminate and negate my Constitutionally protected act private rights of action under the Americans with Disabilities Act (ADA), under Section 504, and of acquiring compensatory damages for the Intentional Infliction of Emotional Distress, which are available to me under Illinois State law.
3. Title 42 §12101-§12111, and § 12203 (b) of the Americans with Disabilities Act (ADA) of 1990 as Amended, are enforceable as United States Constitutional law. The ADA is a civil rights law overseen and implemented by the Social Security Administration, which prohibits discrimination based on disability by affording similar protections against Americans with disabilities as does the Civil Rights Act of

1964. A mental condition, such as posttraumatic stress disorder (PTSD) does not need to be severe or permanent to be a disability. And although not in the text of the statute, courts have held that individuals have a private right of action under Section 504. While punitive damages are not available, compensatory damages for the Intentional Infliction of Emotional Distress are available to plaintiffs under Illinois State law. The text of the United States Constitution does not contain a specific reference to the power of judicial review. Rather, the power to declare laws unconstitutional has been deemed an implied power, derived from Article III and Article VI.

4. I had also presented and noted into the record as evidence of my PTSD disability, in my original complaint 'FACTS IN SUPPORT OF CLAIM' statement #10 (Page 9-10, "Appendix "A") that I, as Plaintiff, had presented Defendant UniQue Personnel Human Resources Administrator Krista Findlay "a copy of his 2014 book 'Necessary Candor', wherein he underlined and discussed with her the passages in pages 80 & 81 which acknowledged his ongoing psychological treatment, as a disabled employee, for having had the generalized anxiety disorder psychological symptoms of a Post-Traumatic Stress Disorder (PTSD)."
5. Judge Yandle's persistent refusal, from the outset of my original complaint filing, to acknowledge the existential reality of my actual PTSD disability, thoroughly created the intervening circumstance of eliminating and negating my Constitutionally protected act private rights of action under the Americans with Disabilities Act (ADA), under Section 504, and of acquiring compensatory damages for the

Intentional Infliction of Emotional Distress, which are available to me under Illinois State law.

6. The provisions relating to the federal judicial power in Article III state that the judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.
7. The Supremacy Clause of Article VI states that this Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. All executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution.
8. The power of judicial review has been implied from these provisions based on the reasoning that it is the inherent duty of the courts to determine the applicable law in any given case. The Constitution is the fundamental law of the United States. Federal statutes are the law of the land only when they are "made in pursuance" of the Constitution. State constitutions and statutes are valid only if they are consistent with the Constitution. Any law contrary to the Constitution is void. The federal judicial power extends to all cases "arising under this Constitution." As part of their inherent duty to determine the law, the federal courts have the duty to interpret and apply the Constitution and to decide whether a federal or state statute conflicts with the Constitution. All judges are bound to follow the Constitution. If there is a conflict, the federal courts have a duty to follow the Constitution and to treat the conflicting

statute as unenforceable. The Supreme Court has final appellate jurisdiction in all cases arising under the Constitution, so the Supreme Court has the ultimate authority to decide whether statutes are consistent with the Constitution.

9. In 1995, I suffered a California Labor Code § 3208.3 Cumulative Stress Injury to my psyche, caused by my employment with the TIMEC Corporation, according to a 1996 Finding of Fact made by Walnut Creek, California Workers' Compensation Appeals Board Presiding Judge George W. Mason, Jr. (WCK0023185), before a subsequent June, 1998, San Francisco, California federal court civil employment law jury verdict was made in my favor for the Intentional Infliction of Emotional Distress (*John Bumphus vs. TIMEC, C-95-3400) before United States District Court for the Northern District of California Judge Susan Illston.
10. The Americans with Disabilities Act (ADA) does not contain a list of medical conditions that constitute disabilities. However, according to the Equal Employment Opportunity Commission (EEOC), the individualized assessment of virtually all people with PTSD will result in a determination of disability under the ADA; given its inherent nature, PTSD will almost always be found to substantially limit the major life activity of brain function (EEOC Reg., 2011). It is already a documented medical evidentiary fact here, according to the January 20, 2015, Axis I diagnosis of Psychiatrist Mirza Baig, M.D., of Centerstone of Alton, Illinois, that I was, and am, thereby eligible for all of the legal workplace protections offered under the Americans with Disabilities Act (ADA) when the Defendant UniQue Personnel Consultants, Inc., hired me in June of 2015. I was not required to disclose my disability during the initial job interview.

11. Prior to my dismissal, on the July 17, 2015 date of my dismissal from employment with Defendant UniQue Personnel Consultants, I presented medical documentary evidence to that Defendant from my primary care physician, David Yablonsky, D.O., which pointed to the instrumentation and spinal debris in my L4-5 area. Immediately subsequent to that evidence being presented, I went to my car and retrieved a copy of my 2014 autobiographical book, "Necessary Candor", which I also presented to that same Defendant's Human Resources Administrator after pointing out, and hi-lighting in yellow, the passage on pages 80 and 81 which reads, "I am now, by way of the Social Security Administration, officially designated and acknowledged as a psychologically disabled person due to my experiences as an employee with the TIMEC Corporation. Yes, I am a person who has actually and officially been rendered disabled by racism in the American workplace. I am still in treatment for the post-traumatic emotional stress disorder symptoms purposely inflicted upon me by those within the TIMEC Company, Inc., who sought, and fought wholeheartedly with full malice, to punish me severely for speaking out to them, within their own conflict resolution system, before I ever even considered going to the federal government, about one single, simple occurring act of just one of their racially discriminatory practices."

12. A stream of initial disputes during Discovery in the March 22, 2016, PTSD-disabled pro se Plaintiff Bumphus filed ADA complaint (Document #2) Case No.: 16-312-SMY-DGW (assigned to Judge Staci M. Yandle, and Magistrate Donald G. Wilkerson), whereby the collective Defendants illegally, and repeatedly, refused to acknowledge the existence of my disability, led to my filing of the (Document #70)

November 16, 2016 filed, “PRO SE PLAINTIFF’S MOTION TO COMPEL”, before Magistrate Donald Wilkerson, wherein I, on Page 2 wrote, “The disabled pro se Plaintiff John Bumphus was already a disabled individual when he applied for employment with Defendant UniQue Personnel Consultants, Inc., on June 11, 2015. The Americans with Disabilities Act (ADA) does not contain a list of medical conditions that constitute disabilities. Instead, the ADA has a general definition of disability that each person must meet on a case by case basis (EEOC Reg., 2011). A person has a disability if he/she has a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or is regarded as having an impairment (EEOC Reg., 2011). However, according to the Equal Employment Opportunity Commission (EEOC), the individualized assessment of virtually all people with PTSD will result in a determination of disability under the ADA; given its inherent nature, PTSD will almost always be found to substantially limit the major life activity of brain function (EEOC Reg., 2011).” Magistrate Wilkerson, after choosing to schedule the date of December 3, 2016 to telephonically meet with the parties to resolve the Motion to Compel, instead cancelled that hearing, as he announced his “retirement” that morning. However, Magistrate Wilkerson did not actually retire from the United States Federal District Court for the Southern District of Illinois until January of 2019.

13. The Defendant UniQue Personnel has also now since admitted under oath, in (Document #83,) filed January 12, 2017, (Page ID #444), wherein they stated in admission that on July 17, 2015, I handed Krista Findlay a copy of my book entitled “Necessary Candor,” and that the following passage in the book, found on pages 80

and 81 therein, was highlighted with yellow marker: "I am now, by way of the Social Security Administration, officially designated and acknowledged as a psychologically disabled person due to my experiences as an employee with the TIMEC Corporation. Yes, I am a person who has actually and officially been rendered disabled by racism in the American workplace. I am still in treatment for the post-traumatic emotional stress disorder symptoms purposely inflicted upon me by those within the TIMEC Company, Inc."

14. For Judge Yandle to ignore the Defendant UniQue's revised (Document #83) admission, by ruling (Document 137, Page ID #1093, Filed 08/30/18) "there is insufficient evidence in the record establishing that Bumphus is disabled within the meaning of the ADA.", is again, an intervening circumstance of substantial controlling effect, which served to eliminate and negate my Constitutionally protected act private rights of action under the Americans with Disabilities Act (ADA), under Section 504, and of acquiring compensatory damages for the Intentional Infliction of Emotional Distress, which are available to me under Illinois State law.

15. Due to the intervening circumstance of Judge Yandle having cancelled all three scheduled bench trial dates pertaining to this ADA complaint which, as an intervening circumstance of substantial controlling effect that served to eliminate and negate my Constitutionally protected act private rights of action under the Americans with Disabilities Act (ADA), under Section 504, and of acquiring compensatory damages for the Intentional Infliction of Emotional Distress, which are available to me under Illinois State law, I did not, as a PTSD-disabled pro se Plaintiff, have the opportunity to personally present these positions of fact to the Court.

16. During Discovery, I asked the Defendant Synergy Coverage Solutions to admit that I was, according to the Americans with Disabilities Act (ADA), a disabled employee of UniQue Personnel Consultants, Inc., during my entire time of employment, from June 21, 2015, through July 17, 2015.
17. Defendant Synergy's response was, "Synergy Coverage Solutions, LLC objects to this interrogatory in that the subject asked therein is a fact which is not relevant to Plaintiff's claim against Synergy Coverage Solutions, LLC, which is not a claim under the Americans with Disabilities Act (ADA), or Synergy's defense to same and therefore this interrogatory is not within the permitted scope as stated in Federal Rule of Civil Procedure 26(b)(1). Additionally, this request assumes the contested fact of whether Plaintiff is considered disabled under the ADA. Further answering, the referenced claim of Plaintiff for workers' compensation insurance is non-compensable as stated in the pleadings before the Illinois Industrial Commission. Further answering, Synergy states that any claim made against it in federal court, including an ADA claim, arising out of the state workers' compensation proceedings cannot be heard in federal court without violating the Rooker-Feldman doctrine. See, Sykes v. Cook County Circuit Court Probation Division, No. 15-1781 (7th Circuit, September 14, 2016). Further answering, Synergy objects to this Request as it appears to ask a question of law, which is not within the scope of Federal Rule of Civil Procedure 36."
18. In rebuttal, and because of the failure of Judge Yandle to actualize any of the three scheduled Court dates did not allow this matter to be resolved in open Court, I point out here that the EEOC federal civil claim was filed on August 6, 2015, while the

Illinois Workers' Compensation claim was filed later, on August 14, 2015. Thereby, it was the workers' comp claim which "came out of" the federal ADA claim, and not the other way around. The only "question of law" involved here is the Title 42 § 12203(b) Americans with Disabilities Act (ADA) "Interference Provision".

19. I then asked the Defendant Synergy Coverage Solutions to "admit that on November 23, 2015, Jennifer Yates-Weller, the attorney you hired to defend the Illinois Workers' Compensation mental-mental injury claim of John Bumphus, knowingly created, presented, fraudulently signed and personally affirmed for Proof of Service as an attorney, two (2) forged Subpoenas Duces Tecum, under the auspices and in clear violation of Chapter II §7030.50-Subpoena Practice, 50 ILLINOIS ADMINISTRATIVE CODE, Illinois Workers' Compensation Rules Governing Practice by U.S. Mail, to John Bumphus, to Dr. Yablonsky at Associated Physician's Group in Edwardsville, Illinois, and to Dr. Baig at Wellspring Resources in Alton, Illinois which is now known as Centerstone, by which she was successful in the instance of Dr. Yablonsky's office, of allowing her to illicitly gain unauthorized access to John Bumphus' personal medical records, in a collective effort along with UniQue Personnel Consultants, Inc., and yourself, to avoid, delay, and deny, the payment of John Bumphus' Illinois Workers' Compensation mental-mental injury benefits, while at the same time violating Section § 17-3 Forgery, of the Illinois Compiled Statutes, which recognizes the forgery Case 3:16-cv-00312-SMY Document 54 Filed 09/27/16 Page 4 of 8 Page ID #306 of a dismissed Illinois Workers' Compensation Commission Chairman's signature as a Class 3 criminal felony."

20. Defendant Synergy Coverage Solution's response was, "Synergy Coverage Solutions, LLC denies this Request."

21. In rebuttal, and because of the failure of Judge Yandle to actualize any of the three scheduled Court dates did not allow this matter to be resolved in open Court, I point out here that as the guilty legal agent of Defendant Synergy Coverage Solutions, LLC, Defendant Jennifer Katherine Yates-Weller, and as a law firm partner with Defendant Hennessy & Roach, P.C., thereby also through vicarious liability compromised all of them culpable as well in the Title § 42 12203 (b) ADA "Interference" violation of the Plaintiff.

22. I also asked the Defendant Unique Personnel Consultants to "admit that you have been made aware, through the medical evidentiary discoveries in the Illinois Workers' Compensation Commission trial of Case No.: 15WC027577 (John Bumphus vs UniQue Personnel Consultants), that in the January 20, 2015 Psychiatric Diagnosis of John Bumphus by his treating Psychiatrist Mirza Baig, M.D., along with the "current (Axis I) diagnosis" on that date which identified John Bumphus as having the clinical disorder of having a "History of PTSD", while also being diagnosed in his (Axis III) diagnosis, points out that one of the physical problems of John Bumphus which may cause an exacerbation to his post-traumatic stress disorder (PTSD) mental health condition includes "spinal stenosis"."

23. Defendant Unique Personnel Consultants' response was, "Defendant objects to this Request as it violates Fed. R. Civ. P. 36(a)(2) insofar as it contains more than one matter and each matter is not separately stated. Defendant also objects to this Request as it is argumentative and seeks a legal conclusion and further objects to the

characterization of Plaintiff as “disabled,” on the bases that said characterization is argumentative and improper, and on the additional basis that whether a claimed affliction actually constitutes an impairment under the Americans with Disabilities Act (“ADA”) is a Case 3:16-cv-00312-SMY Document 62 Filed 10/13/16 Page 8 of 16 Page ID #359 9 determination of law and is thus a legal conclusion and inappropriate, and is not within the scope of Federal Rule of Civil Procedure 36.

Further, Defendant states that this Request runs afoul of the Rooker-Feldman doctrine. See Rooker v. Fidelity Tr. Co., 263 U.S. 413, 44 S. Ct. 149, 68 L. Ed. 362 (1923); D.C. Court of Appeals v. Feldman, 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983).

24. In rebuttal, and because of the failure of Judge Yandle to actualize any of the three scheduled Court dates did not allow this matter to be resolved in open Court, I point out here that the EEOC federal civil claim was filed on August 6, 2015, while the Illinois Workers’ Compensation claim was filed later, on August 14, 2015. Thereby, it was the workers’ comp claim which “came out of” the federal ADA claim, and not the other way around. The only “question of law” involved here is the Title 42 § 12203(b) Americans with Disabilities Act (ADA) “Interference Provision”. Thereby, Rooker-Feldman does not apply.

25. The Defendant UniQue Personnel has also now since admitted under oath, in (Document #83,) filed January 12, 2017, (Page ID #444), wherein they stated in admission that on July 17, 2015, John Dan Bumphus, Jr. handed Krista Findlay a copy of his book entitled “Necessary Candor,” and that the following passage in the book, found on pages 80 and 81 therein, was highlighted with yellow marker: “I am

now, by way of the Social Security Administration, officially designated and acknowledged as a psychologically disabled person due to my experiences as an employee with the TIMEC Corporation. Yes, I am a person who has actually and officially been rendered disabled by racism in the American workplace. I am still in treatment for the post-traumatic emotional stress disorder symptoms purposely inflicted upon me by those within the TIMEC Company, Inc.”

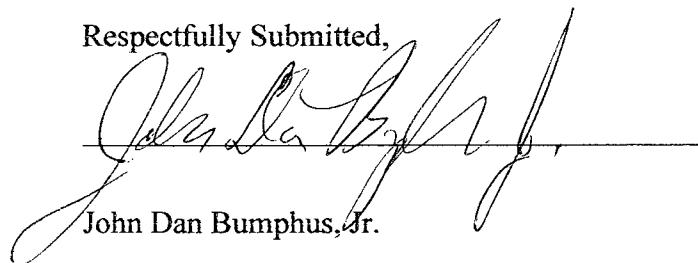
26. Alone, that singular and particular, above-stated federal civil employment litigation evidentiary admission was clearly capable of irrevocably establishing to the United States Court of Appeals for the Seventh Circuit’s jurisdictional standard of review, that before his dismissal from employment on the July 17, 2015 onset date of the verbal employment dispute meeting, at the Defendant UniQue Personnel’s Glen Carbon, Illinois, office concerning a pattern of repeated unscheduled overtime requests which required that the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., participate in a series of awkwardly painful, uncomfortable lifting tasks which brought distress to the L4-5 region of his back, due to his having a rod, and two pins, placed there from a 2006 spinal fusion surgery, which then caused a disabling exacerbation of his previously-diagnosed Social Security Administration-acknowledged, DSM Code-Description F43.10-Posttraumatic Stress Disorder of John Dan Bumphus, Jr., the Defendant UniQue Personnel Consultants, Inc., was aware and duly informed of his active PTSD-disability status which covered him, as a disabled citizen, with all of the Constitutional Law protections provided under Title 42 §12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, including 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. Yet to this day they have declined and tacitly refused to engage the Plaintiff in the Reasonable Accommodation Interactive process covered by both Title 42 § 12111 (9), in addition to their ignoring the legislated task set forth by the §23:68 Interactive Process for Disability under the Illinois Workers' Compensation Act. Aside from not engaging the PTSD-disabled pro se Plaintiff in the federal law Title 42 § 12111 (9) interactive process, the collective Defendants UniQue Personnel Consultants, Inc., Defendant SYNERGY Coverage Solutions, L.L.C., Defendant attorney Jennifer Katherine Yates-Weller, as a partner with Defendant Hennessy & Roach, P.C., and Defendant Andrew Toennies, have all collectively coerced, threatened, lied, intimidated, and illegally interfered, in violation of the aforementioned "interference" provision, with respect to the PTSD-disabled pro se Plaintiff's ADA rights, under 42 U.S.C. § 12203(b).

CONCLUSION-

I hereby respectfully request that this United States Supreme Court, after considering this substantial intervening circumstantial evidence, chooses to under Rule 44 Rehear this corrected submitted Petition for Writ of Certiorari.

Respectfully Submitted,



John Dan Bumphus, Jr.

June 30, 2021