

No. 25- 737

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN S. MORTER,
Petitioner,

v.

PETE HEGSETH,
Secretary, Department of Defense,
Respondent.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the District of Columbia Circuit**

PETITION FOR WRIT OF CERTIORARI

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Dated: December 12, 2025

QUESTIONS PRESENTED

1. Whether a federal agency may, consistent with the Rehabilitation Act of 1973 and EEOC regulations, redefine a security screening requirement—such as a counterintelligence scope polygraph (CSP) examination—as an “essential job function,” thereby eliminating the duty to provide reasonable accommodation to employees whose documented medical conditions render them unsuitable for such testing.
2. Whether mandatory Department of Defense regulations, including DoDI 5210.91—which (a) prohibit adverse administrative action based solely on an unresolved polygraph result and (b) require medical deferral or exemption for individuals who are psychologically or medically unsuited for testing—are judicially enforceable under the Rehabilitation Act, or instead may be disregarded under a theory of unreviewable “security discretion.” (App. F)
3. Whether courts may extend *Department of the Navy v. Egan*, 484 U.S. 518 (1988), beyond clearance adjudications to cover ordinary personnel and medical accommodation decisions, effectively placing federal employees’ statutory rights outside judicial review even when no security clearance has been suspended, revoked, or unfavorably adjudicated.
4. Whether an agency that categorically refuses to consider disability-based accommodations or to engage in the interactive process required by 29 C.F.R. §1630.2(o)(3) may nevertheless be deemed to

have acted lawfully under the Rehabilitation Act when its justifications are shifting, medically unsupported, and contrary to its own binding regulations.

PARTIES TO THE PROCEEDING

Petitioner is John S. Morter. Respondent is the Secretary of Defense, who was the defendant in the courts below. Petitioner is not a corporation.

RELATED PROCEEDINGS

Morter v. Secretary of Defense, No. 24-5056, United States Court of Appeals for the District of Columbia Circuit. Judgment entered July 22, 2025; rehearing and rehearing en banc denied September 18, 2025.

Morter v. Secretary of Defense, No. 1:23-cv-01155, United States District Court for the District of Columbia. Memorandum opinion and order entered March 15, 2024.

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The opinion of the court of appeals (unreported) is reproduced at Appendix A. The memorandum opinion and order of the district court (unreported) are reproduced at Appendix B. The order of the court of appeals denying rehearing en banc is reproduced at Appendix C.

JURISDICTION

The judgment of the court of appeals was entered on July 22, 2025. A timely petition for rehearing and rehearing en banc was denied on September 18, 2025. The courts below had jurisdiction under 28 U.S.C. § 1331 and 29 U.S.C. § 794a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

29 U.S.C. § 794 provides in relevant 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 or under any program or activity conducted by any Executive agency or by the United States Postal Service.

29 U.S.C. § 794a (a)(1) provides in relevant part:

The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-16) ... shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint.

42 U.S.C. § 12111(8) defines “qualified individual”:

The term “qualified individual” means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

42 U.S.C. § 12112(b)(6) states:

As used in subsection (a), the term “discriminate” includes—using qualification

standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity.

29 C.F.R. § 1630.2(n) defines “Essential Functions”: “Essential Functions” are the fundamental job duties of the position an individual holds or seeks, excluding marginal or incidental tasks. The regulation identifies several forms of evidence relevant to determining whether a function is essential, including the employer’s judgment, preexisting job descriptions, the amount of time spent performing the function, the consequences of not requiring it, applicable collective bargaining terms, and the experience of past and current employees in comparable positions.

29 C.F.R. § 1630.2(o)(3) provides:

The requirement for employers to engage in an individualized, interactive process when an employee requests a reasonable accommodation. This process is a collaborative, good-faith dialogue intended to identify the employee’s limitations and determine an effective accommodation. The regulation emphasizes that accommodation determinations must be grounded in the specific circumstances of the individual, rather than on generalized assumptions or categorical rules.

INTRODUCTION

For thirty-four years, Petitioner John S. Morter served in the Department of Defense and the intelligence community, holding a Top-Secret security clearance throughout his career. After years of repeated counterintelligence scope polygraph examinations, he developed severe anxiety and post-traumatic stress symptoms directly associated with those examinations. His treating medical providers determined—repeatedly and in writing—that he was psychologically and emotionally unsuited to undergo further polygraph testing. Under binding Department of Defense regulations, such determinations require postponement or exemption from further examinations and prohibit adverse administrative action based solely on an “unresolved” polygraph result. Nevertheless, the Defense Intelligence Agency (DIA) compelled additional examinations, rejected all medical documentation, and reassigned Petitioner solely because he could not “successfully complete” a screening instrument—despite the fact that his security clearance was never suspended, revoked, or negatively adjudicated.

The scientific foundations of polygraph screening have long been the subject of substantial doubt. In its comprehensive review, the National Research Council concluded that polygraph screening, particularly for personnel security purposes, lacks sufficient diagnostic value to justify adverse employment decisions and carries a significant risk of false positives in low-base-rate populations such as cleared federal employees. National Research Council, *The Polygraph and Lie Detection* 212–13 (2003). Fifteen

years later, leading researchers reaffirmed that the methodological shortcomings remain unresolved and that claimed accuracy rates exceed what the evidence supports. Iacono & Ben-Shakhar, *Current Status of Polygraph Techniques: Where Do We Go From Here?*, 28 Psychol. Sci. Pub. Int. 3, 7–9 (2018). The Department-wide USD(I) compliance assessment found no evidence of adverse administrative or personnel actions taken solely on the basis of unresolved polygraph results, and it documented that such actions were prohibited as a matter of policy and reversed when discovered. Office of the Under Secretary of Defense for Intelligence, *Assessment of DoD Polygraph Program Compliance* 17–18 (2011).

Notwithstanding those scientific and institutional safeguards, the court of appeals affirmed the agency's actions on two sweeping grounds with far-reaching legal consequences. First, it held that successful polygraph compliance constitutes an essential job function of intelligence analysis under the Rehabilitation Act, thereby eliminating the duty to provide reasonable accommodation to employees whose medical conditions render them unsuitable for such testing. Second, it extended *Egan* beyond security clearance adjudications to shield ordinary personnel and medical-accommodation decisions from judicial review whenever an agency invokes “trust” or “confidence,” even in the absence of any adverse clearance determination.

Those rulings substantially alter settled federal disability law. If allowed to stand, they permit agencies to reclassify eligibility screens—including medical, psychological, and security testing—as essential job functions and to disregard binding

regulatory protections by characterizing routine personnel actions as security-related. The decision thus threatens to place a large class of government employees beyond the practical protection of the Rehabilitation Act and to destabilize uniform national standards governing accommodation in security-sensitive employment.

This petition therefore presents recurring and exceptionally important questions concerning the definition of essential job functions, the enforceability of binding Department of Defense safeguards, the proper scope of *Egan*, and the continued vitality of the interactive process and pretext frameworks in national security contexts. Clarification from this Court is warranted to restore doctrinal coherence, preserve statutory protections for government employees with disabilities, and delineate the constitutional and statutory limits of deference in matters touching national security.

STATEMENT OF THE CASE

Petitioner John S. Morter served for thirty-four years in the Department of Defense (DoD) and intelligence community, holding a Top-Secret security clearance throughout his career. His performance evaluations consistently reflected excellence, and his clearance was never suspended, revoked, or downgraded.

A. Medical Suitability and Polygraph-Related Trauma

Late in his career, Petitioner began experiencing severe anxiety, panic symptoms, and post-traumatic stress associated with repeated counterintelligence-scope polygraph examinations. Multiple treating medical providers—including psychiatrists, psychologists, and primary-care clinicians—diagnosed Petitioner with polygraph-induced anxiety and post-traumatic stress symptoms and concluded that he was psychologically and emotionally unsuited to undergo further such examinations. These medical determinations were reduced to writing and submitted to the Defense Intelligence Agency (DIA).

B. DIA Rejects All Medical Documentation and Compels Additional Examinations

Despite receiving multiple written medical opinions establishing that Petitioner was psychologically and emotionally unsuited for further polygraph testing, DIA did not postpone or exempt him from examination. Instead, the agency directed him to undergo another counterintelligence-scope polygraph, notwithstanding the medical determinations and in contravention of applicable regulatory requirements.

Petitioner requested reasonable accommodation based on his PTSD-related symptoms, including temporary deferral of testing and reassignment to duties not requiring an immediate examination. DIA

denied those requests and did not engage in any substantive interactive process.

DIA nevertheless insisted on additional examinations despite documented psychological instability, worsening symptoms, and explicit medical warnings. During these sessions, Petitioner experienced acute panic and the examinations yielded multiple inconclusive or unresolved results. His condition deteriorated to the point that he was ultimately compelled to accept disability retirement.

C. Counterintelligence Investigation, Security Reviews, and Personnel Reassignment

Following the unresolved polygraph examinations, DIA initiated an extensive counterintelligence investigation. A formal Agent Report dated August 12, 2012, documented that investigators conducted a comprehensive review of Petitioner's alleged mishandling concerns, coordinated with external security offices, reviewed classified-system protocols, and interviewed Petitioner under oath. The report concluded that Petitioner was cooperative, that no deliberate mishandling of classified information was established, and that no further investigative action was warranted. (Agent Report, Aug. 12, 2012)

On February 8, 2013, DIA completed a formal Security Review and Evaluation Record recommending that Petitioner's access be "continued with no further action." The adjudicative record expressly noted that Petitioner had no security violations or infractions, had made no relevant admissions, and appeared to be a "security conscientious worker." The report further concluded

that the investigation should be closed and that no further polygraph testing was anticipated. (Security Review & Evaluation Record, Feb. 8, 2013)

On March 13, 2013, DIA completed a Counterintelligence Review and Risk Assessment (CIRA) evaluating Petitioner's continued suitability for access to classified information. The CIRA reviewed Petitioner's full background, employment history, travel, polygraph history, and investigative record. It expressly stated that the assessment was not intended to prove or disprove espionage, found no evidence of deliberate mishandling or unauthorized disclosure, and concluded that the record was insufficient to support any adverse counterintelligence determination. The CIRA did not recommend clearance suspension or revocation. (Counterintelligence Review & Risk Assessment, Mar 13, 2013)

On January 31, 2014, DIA issued a second Security Review and Evaluation Record incorporating the results of a December 2, 2013, psychological evaluation. That evaluation concluded that Petitioner was "unlikely to be a suitable candidate for further polygraph testing." The adjudicative note recorded the following findings verbatim:

Per conversation w/ SSO SOCOM (Ms. Francisco), OSI has now taken an interest on Sub & has opened an inquiry. Researching the poly program is not an action that warrants revoking clearances especially if there is a reason. Spouse could not get through her exam and lost her job. Subj has been diagnosed w/ an 'Adjustment Disorder w/ Anxiety' & is in counseling. Subj should continue counselling &

scheduled for another CSP w/ I 6–12 months.

Give subj an Advisory Ltr.

The adjudicative recommendation called only for counseling and a possible retest after treatment; it did not recommend clearance revocation, suspension, or restriction. (Adjudicator Note, Jan. 31, 2014, Security Review & Evaluation Record)

On February 6, 2014, the DIA Central Adjudication Facility issued Petitioner a formal Advisory Letter Concerning Continued Access to Sensitive Compartmented Information. The letter acknowledged his polygraph history and encouraged continued mental-health treatment, stating that seeking such care would not adversely affect his security eligibility. The Advisory Letter imposed no restriction, suspension, or revocation of clearance. (Advisory Letter, Feb. 6, 2014)

Notwithstanding these investigative findings and adjudicative determinations—each of which declined to impose any adverse security action—DIA reassigned Petitioner from his analytic position, removed core responsibilities, and placed him into a non-analyst role. This personnel action was taken solely because Petitioner could not “successfully complete” further counterintelligence scope polygraph examinations, even though: (1) security officials had repeatedly declined to impose clearance sanctions, and (2) agency regulations prohibit adverse administrative action based solely on unresolved polygraph results.

At no point was Petitioner’s Top-Secret clearance formally suspended, revoked, or denied through the established adjudicative process. The adverse action

at issue was a supervisory personnel reassignment, not a security clearance determination.

D. Proceedings in the Courts Below

Petitioner filed suit in the United States District Court for the District of Columbia under the Rehabilitation Act, alleging that the Defense Intelligence Agency failed to provide reasonable accommodation, refused to engage in the required interactive process, and acted in violation of binding medical-deferral regulations. The district court granted summary judgment to the agency, holding that Petitioner was not “qualified” for his position because, in the court’s view, successful completion of a polygraph examination constituted an essential job function of intelligence analysis.

The United States Court of Appeals for the District of Columbia Circuit affirmed on the same ground. It held that polygraph “compliance” was an essential function because Petitioner “needed” to “successfully complete” a polygraph to retain access to classified information, notwithstanding that his security clearance was never suspended, revoked, or unfavorably adjudicated and that the polygraph examination functioned as a screening tool rather than a component of analytic job performance. The court further held that *Egan* insulated the agency’s actions from judicial review even though no unfavorable clearance adjudication occurred and the agency’s conduct conflicted with its own binding regulations.

This petition follows.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Misapplies the Essential-Function Framework and Conflicts with the Rehabilitation Act, EEOC Regulations, and Settled Precedent.

The decision below rests on a fundamental legal error: it treats the ability to “successfully complete” a counterintelligence-scope polygraph examination as an essential job function of intelligence analysis under the Rehabilitation Act, 29 U.S.C. § 794. That conclusion contradicts the statute’s text, EEOC regulations implementing both the ADA and the Rehabilitation Act, and decades of precedent distinguishing core job duties from eligibility screens, qualification standards, and ancillary prerequisites.

The Rehabilitation Act requires federal agencies to distinguish the “fundamental job duties” of a position from the qualification standards and medical criteria used to determine whether an individual may hold that position. 29 C.F.R. § 1630.2(n); 42 U.S.C. § 12112(b)(6). Essential functions are those tasks intrinsic to job performance—the work the employee exists to perform—not hurdles imposed before the employee may be allowed to perform them. Courts therefore uniformly reject efforts to reclassify eligibility screens as essential job functions. See, e.g., *Aka v. Washington Hosp. Ctr.*, 156 F.3d 1284, 1298–99 (D.C. Cir. 1998) (en banc); *Solomon v. Vilsack*, 763 F.3d 1, 9–10 (D.C. Cir. 2014).

The D.C. Circuit departed from that settled framework. Rather than evaluate whether Petitioner’s core job duties—analysis, production,

reporting, and operational support—remained fully performable with accommodation, the court treated compliance with a polygraph examination, a screening tool administered episodically, as though it were part of the daily analytic work itself. That reasoning collapses the critical distinction between performing the job and qualifying for the job, the very distinction the EEOC emphasized to ensure that workers with disabilities are judged on actual performance rather than on extrinsic medical or eligibility barriers.

This misclassification is especially stark on this record. Petitioner underwent an extensive counterintelligence investigation, a Counterintelligence Review and Risk Assessment, two formal Security Review and Evaluation Records, and a final adjudicative Advisory Letter. None imposed any adverse clearance action; each confirmed that unresolved CSP results were nondispositive and that Petitioner remained eligible for access. Adjudicators repeatedly found no evidence of deliberate mishandling, no unauthorized disclosure, and no basis for suspension or revocation. The only consistent conclusion was medical: Petitioner was psychologically unsuited for further polygraph testing—precisely the circumstance in which DoDI 5210.91 requires deferral and forbids adverse action based solely on unresolved CSP results. See DoDI 5210.91 (medical-deferral and non-penalization requirements); Office of the Under Sec’y of Def. for Intelligence, *Assessment of DoD Polygraph Program Compliance* 17–18 (2011) (finding adverse action based solely on unresolved CSP results is prohibited). Yet the court below nonetheless treated the very

screening tool Petitioner was medically unable to complete as an “essential function” of his analytic position. That result illustrates exactly why eligibility screens cannot be equated with job duties.

Courts have rejected similar attempts to treat screening instruments or qualification metrics as essential job functions. The ability to satisfy a prerequisite—whether a medical test, psychological evaluation, certification exam, or episodic eligibility check—is not an essential function unless it is itself a core task of the job. See *Bragdon v. Abbott*, 524 U.S. 624, 641–42 (1998); *Ward v. McDonald*, 762 F.3d 24, 32 (D.C. Cir. 2014); *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 147 (2000).

The EEOC’s factors underscore the error. Courts must consider the reason the position exists, the number of employees available to perform the function, and whether the function is specialized. 29 C.F.R. § 1630.2(n)(2). Here, intelligence analysts exist to evaluate intelligence—not to undergo periodic polygraph examinations. Thousands of analysts perform identical work regardless of reinvestigation timing. And no analytic skill involves polygraph endurance.

By reclassifying a periodic screening mechanism as a job duty, the decision below offers a template for agencies to evade the essential-function framework altogether. Congress required employees to be evaluated based on their ability to perform the job itself—not their ability to complete ancillary screening processes.

II. The Decision Below Collapses the Distinction Between Essential Functions and Qualification Standards in Defiance of EEOC Regulations, Scientific Consensus, and Established Precedent.

This case presents a second, analytically distinct error. Beyond misapplying the essential-function test, the decision below obliterates the statutory line between essential functions and qualification standards—two categories Congress and the EEOC treat as separate and non-interchangeable.

The decision below erases the fundamental distinction Congress codified between essential job functions and qualification standards. Under the Rehabilitation Act and ADA, essential functions are the duties an employee performs, while qualification standards—including medical and psychological requirements—are eligibility criteria imposed before performance begins. By collapsing these legally distinct categories and treating polygraph “passage” as a job duty, the court below nullified the reasonable-accommodation framework Congress enacted.

EEOC regulations make this distinction explicit. Essential functions are the “fundamental job duties” intrinsic to the work itself. 29 C.F.R. § 1630.2(n)(1). Qualification standards, by contrast, include medical and psychological criteria used to determine eligibility. 42 U.S.C. § 12112(b)(6). These categories are not interchangeable. Treating qualification standards as essential functions defeats the statutory obligation to provide accommodation and enables exclusion through definitional manipulation.

The Department of Defense’s own regulations reinforce this statutory divide. DoDI 5210.91 consistently treats polygraph examinations as a screening requirement—not a job duty—and imposes mandatory safeguards when an employee is medically, psychologically, or emotionally unsuited for testing. Components “shall exempt or postpone” examinations under such circumstances and “shall not” take unfavorable administrative action based solely on a refusal or unresolved result. (App. F) These protections make sense only if polygraph compliance is understood as a qualification standard external to job performance.

Scientific consensus likewise confirms that polygraph testing is a screening mechanism ill-suited for dispositive employment determinations. The National Research Council concluded that personnel-security polygraph screening lacks sufficient diagnostic accuracy to justify adverse employment decisions and carries a substantial risk of false positives in low-base-rate populations such as cleared federal employees. National Research Council, *The Polygraph and Lie Detection* 212–13 (2003). Fifteen years later, leading researchers reaffirmed that the methodological shortcomings remain unresolved and that claimed accuracy rates exceed what the evidence supports. Iacono & Ben-Shakhar (2018). These findings underscore the incompatibility of treating polygraph “passage” as a core job function.

The court’s reasoning also conflicts with controlling precedent. *Aka*, *Solomon*, and *Ward* all reject reclassification of threshold prerequisites as essential functions. The error here is not abstract. A polygraph examination is episodic and external to

analytic work. Analysts exist to evaluate intelligence—not to undergo medical-psychological screening. Treating screening success as a job duty would convert virtually every medical, fitness, or background requirement into an essential function, a result the statute was enacted to prevent.

Because the decision below collapses the statutory distinction between essential functions and qualification standards, disregards controlling scientific authority, and contradicts settled precedent, this Court's review is warranted.

III. The Decision below Improperly Extends *Egan* to Non-Clearance Personnel Actions, Shielding Violations of Binding Regulations from Judicial Review.

The lower courts effectively applied *Department of the Navy v. Egan*, 484 U.S. 518 (1988), to bar review of ordinary personnel and disability-accommodation decisions—an extension this Court has never recognized. *Egan* protects only the predictive judgments inherent in a formal security-clearance adjudication, not supervisory actions, medical unsuitability findings, or refusals to accommodate. Yet no adverse clearance adjudication occurred here. Petitioner's clearance was never suspended, revoked, or negatively adjudicated; multiple security reviews reaffirmed his eligibility and expressly found no misconduct, no compromise, and no basis for adverse action. The only consistent finding was medical: Petitioner was psychologically unsuited for further polygraph testing.

Despite the absence of any clearance action, the courts below treated DIA's generic assertions of "trust" and "security concerns" as dispositive, declining to review violations of mandatory regulatory safeguards. That is precisely the sort of non-clearance conduct this Court held in *Egan* does not receive deference. And when an agency invokes "security" to justify actions outside the clearance-adjudication sphere, this Court and the D.C. Circuit have made clear that courts retain full authority to review those actions. See *Service v. Dulles*, 354 U.S. 363 (1957); *Vitarelli v. Seaton*, 359 U.S. 535 (1959); *Rattigan v. Holder*, 689 F.3d 764 (D.C. Cir. 2012).

Here, DIA violated nondiscretionary provisions of DoDI 5210.91, which require Components to postpone or exempt polygraphs when an employee is medically or psychologically unfit, and which prohibit any unfavorable administrative action based solely on an unresolved CSP result. These mandatory protections eliminate discretion; where regulations remove discretion, there is no predictive national-security judgment for a court to defer to. By insulating DIA's actions from review, the decision below nullifies those regulatory commands and effectively grants agencies an unchecked ability to sidestep federal disability law simply by invoking security terminology.

Left uncorrected, the ruling creates a broad and untenable zone of unreviewability: any adverse action against a cleared employee could be immunized from judicial scrutiny through a bare assertion of "trust," even absent a clearance adjudication. Such an expansion of *Egan* threatens both statutory rights and the rule of law. Review is warranted.

IV. The Decision Below Undermines the Interactive Process and Pretext Framework by Allowing Generic Security Invocations to Replace Individualized Accommodation

Federal disability law requires agencies to evaluate accommodation requests through an individualized, evidence-based interactive process—not through categorical rules or conclusory assertions. Implementing regulations mandate good-faith dialogue. 29 C.F.R. § 1630.2(o)(3). By allowing DIA to bypass that process entirely through abstract invocations of “trust,” the decision below strips the Rehabilitation Act of its central procedural safeguard.

DIA did not engage in any meaningful interactive process. Despite repeated medical findings that Petitioner was psychologically unsuitable for further polygraph testing, DIA rejected all medical documentation, compelled additional examinations, and imposed reassignment solely based on screening failure.

DoDI 5210.91 operationalizes the interactive-process obligation in security contexts. It mandates medical deferral and prohibits adverse action based on unresolved results. Yet DIA ignored these rules.

The Department-wide USD(I) compliance report confirms DIA’s conduct is an institutional outlier: adverse action based solely on unresolved CSP results is prohibited, rare, and reversible at the highest levels of DoD. Office of the Under Sec’y of Def. for Intelligence, *Assessment of DoD Polygraph Program Compliance* 7 (2011)

Departures from binding regulations are classic evidence of pretext under *Service*, 354 U.S. at 388;

Vitarelli, 359 U.S. at 546; *Brady v. Office of Sergeant at Arms*, 520 F.3d 490, 495–96 (D.C. Cir. 2008); and *Aka*, 156 F.3d at 1298. Yet the court of appeals treated any invocation of “security” as dispositive—contrary to *Rattigan*, 689 F.3d at 769–70, and unsupported by *Egan*, 484 U.S. at 527

If permitted to stand, the ruling renders the interactive process illusory for cleared employees and collapses the pretext framework Congress designed to enforce disability rights.

V. This Case Is an Ideal Vehicle for Resolving the Questions Presented.

This case is an exceptionally clean and appropriate vehicle for review. The record is complete and fully developed. All dispositive legal issues were squarely raised, litigated, and resolved in the courts below. There are no disputed issues of material fact: the agency relied solely on Petitioner’s inability to “successfully complete” a polygraph examination; Petitioner’s security clearance remained continuously in effect; and the medical evidence establishing his psychological unsuitability for testing was undisputed.

No procedural impediments complicate review. The judgment below is final. There are no unresolved jurisdictional issues, no interlocutory posture, and no overlapping administrative proceedings. The legal questions presented are purely questions of law.

Most importantly, the core issues—the proper definition of essential job functions under the Rehabilitation Act, the enforceability of binding medical-deferral regulations, the limits of *Egan*

deference, and the integrity of the interactive-process and pretext frameworks in security-sensitive employment—are cleanly and directly presented on this record. Their resolution turns on general legal standards of broad and recurring importance, not on case specific factual nuances.

Because this case presents those questions in a final, fully developed, and procedurally unobstructed posture, it is an ideal vehicle for this Court’s review.

CONCLUSION

The decision below permits federal agencies to circumvent the Rehabilitation Act and binding Department of Defense safeguards simply by recasting medical deferral requirements and screening mechanisms as matters of “trust.” In doing so, it insulates ordinary personnel actions from judicial review even where no security clearance adjudication has occurred. That approach conflicts with this Court’s precedent, destabilizes settled national standards governing essential job functions and qualification criteria, and invites precisely the sort of pretextual reliance on generalized “security concerns” that Congress and this Court have long rejected.

For Petitioner, the consequences have been devastating. After thirty-four years of distinguished federal service, the adverse actions taken against him did not merely alter his job duties—they effectively destroyed his professional career, irreparably damaged his reputation, and profoundly worsened the very medical conditions for which he sought protection. He was subjected to repeated compelled examinations despite documented psychological

unsuitability, stripped of his professional role, and forced into disability retirement under circumstances that conveyed suspicion rather than medical necessity. The Rehabilitation Act was enacted precisely to prevent such outcomes: to ensure that employees are judged by their ability to perform their work, not punished for medical conditions beyond their control.

If left uncorrected, the decision below will expose thousands of cleared professionals to the same fate—discipline, marginalization, and career ruin based solely on medical limitations tied to screening procedures rather than job performance. It will permit agencies to nullify accommodation duties through relabeling alone and will erode the fundamental principle that national security and the rule of law must coexist.

This Court's intervention is necessary to restore doctrinal coherence, to reaffirm the enforceability of binding federal safeguards, and to ensure that civil rights protections apply with full force even in the most sensitive corners of public service.

For the foregoing reasons, and because the questions presented are of exceptional importance, The petition for a writ of certiorari should be granted.

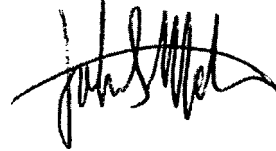
Respectfully submitted,

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Dated: December 12, 2025

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John S. Morter", with a large, sweeping flourish at the end.

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