

26-5719

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

JUN 16 2026

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

DONALD STEPHENS – PETITIONER

(Your Name)

V

UNITED STATES ENVIRONMENTAL SERVICES, LLC- RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DONALD STEPHENS

(Your Name)

12811 ARTHUR LANE

(Address)

LITTLE ROCK, AR 72211

(City, State, Zip Code)

(501) 310-0916

(Phone Number)

QUESTION(S) PRESENTED

Whether the ADA Amendments Act of 2008, 42 U.S.C. § 12102(4)(D), which expressly provides that episodic impairments shall be evaluated in their active state, requires a plaintiff to demonstrate “ongoing symptoms” at the precise moment of an adverse employment action in order to establish disability — or whether objective medical evidence of a substantially limiting episodic impairment, including an abnormal EKG, diagnosis of Atrifibrillation, physician-imposed restrictions, and a DOT medical disqualification, is sufficient to establish disability under the ADAAA.

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

The Appellant is Donald Stephens.

The Appellee is United States Environmental Services, LLC

RELATED CASES

None.

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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix ____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix ____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

[] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was February 12, 2026.____

☐ No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

[] For cases from **state courts:**

The date on which the highest state court decided my case was _____
A copy of that decision appears at Appendix ____

[] A timely petition for rehearing was thereafter denied on the following date:
 _____, and a copy of the order denying rehearing
 appears at Appendix _____

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

ADA Amendments Act of 2008, § 2(b)(1)–(6), Pub. L. No. 110-325, 122 Stat. 3553–3554.

STATEMENT OF THE CASE

A. Factual Background

1. Petitioner Donald Stephens was employed by Respondent United States Environmental Services, LLC as a commercial truck driver holding a Commercial Driver's License ("CDL"). His position required him to operate a commercial motor vehicle as a core, essential function of his employment.

2. Mr. Stephens was diagnosed with atrial fibrillation, a recognized episodic cardiovascular impairment. Atrial fibrillation is characterized by an irregular and often rapid heart rhythm that can cause poor blood flow, an increased risk of loss of consciousness, and other serious cardiac events. By its very nature, atrial fibrillation does not produce symptoms continuously; rather, it is a classic episodic impairment that may be in remission at any given moment but that substantially limits major life activities and bodily functions when active.

3. Mr. Stephens presented with an abnormal electrocardiogram ("EKG"), which constituted objective medical evidence of his cardiovascular impairment. In addition, a treating physician imposed work restrictions on Mr. Stephens, reflecting the medical judgment that his condition limited his ability to perform certain occupational functions.

4. The Department of Transportation ("DOT") issued a medical disqualification that prevented Mr. Stephens from operating a commercial motor vehicle. The DOT medical disqualification represents a formal medical and regulatory determination that Mr. Stephens's condition posed a risk of incapacitation — including the risk of losing consciousness due to insufficient blood flow to the heart — while operating a commercial vehicle, and that he could not safely perform CDL-required duties as a result of his condition.

5. Based upon Mr. Stephens's medical condition and the DOT disqualification, Respondent disqualified Mr. Stephens from employment. The adverse employment action was taken by Respondent because of Mr. Stephens's disability, as evidenced by his medical condition and the foregoing objective

documentation.

B. Procedural History

6. Mr. Stephens filed suit in the United States District Court for the *Eastern District of Arkansas*, alleging disability discrimination in violation of the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008, 42 U.S.C. §§ 12101 *et seq.*

7. The District Court entered judgment against Mr. Stephens, finding that he had not established a qualifying disability under the ADA.

8. Mr. Stephens appealed to the United States Court of Appeals for the Eighth Circuit. A panel of the Eighth Circuit affirmed the judgment of the District Court on February 12, 2026, holding that because Mr. Stephens was not experiencing “ongoing symptoms” of atrial fibrillation at the time of his disqualification, he was not disabled within the meaning of the ADA.

9. This Petition for Writ of Certiorari timely follows.

REASONS FOR GRANTING THE PETITION

Introduction

The Eighth Circuit's decision conflicts with the ADA Amendments Act of 2008 ("ADAAA"), 42 U.S.C. § 12102(4)(D), and with decisions of multiple circuits interpreting the ADAAA's mandate that episodic or intermittent impairments must be evaluated based on their effects when active — not on whether the plaintiff is experiencing symptoms at the precise moment of the adverse employment action. The panel held that because Mr. Stephens was not experiencing "ongoing symptoms" of atrial fibrillation at the time of his disqualification, he was not disabled under the ADA. This reasoning revives the narrow, pre-ADAAA standard Congress expressly rejected in *Toyota Motor Mfg., Ky., Inc. v. Williams*, 534 U.S. 184 (2002), and in enacting the ADAAA.

Certiorari is warranted because the Eighth Circuit's decision: (1) conflicts with the ADAAA's statutory text; (2) creates a circuit split with decisions of the First, Fifth, Seventh, and Ninth Circuits; (3) conflicts with the purpose and structure of the ADAAA; and (4) presents a question of exceptional importance affecting workers with episodic cardiovascular impairments nationwide.

I. The Eighth Circuit's Decision Conflicts with the ADAAA's Statutory Text

II. The Eighth Circuit's Decision Creates a Circuit Split

The Eighth Circuit's "ongoing symptoms" requirement places it in direct conflict with the uniform holdings of the First, Fifth, Seventh, and Ninth Circuits, all of which have rejected any requirement that a plaintiff demonstrate active or ongoing symptoms at the moment of an adverse employment action to establish disability under the ADAAA.

First Circuit — *Sensing v. Outback Steakhouse of Florida, LLC*, 575 F.3d 145 (1st Cir. 2009).

The First Circuit recognized that episodic conditions must be evaluated based on their limiting effects when active. In *Sensing*, the plaintiff was diagnosed with a remitting-relapsing form of multiple sclerosis (“MS”). The court recognized that during periods of remission, individuals with MS can function similarly to persons without the disease, but that the episodic nature of the impairment does not defeat disability status. The court's reasoning — that the episodic character of an impairment is not a bar to ADA coverage — was expressly incorporated into the ADAAA's episodic-impairment provision, codified at 42 U.S.C. § 12102(4)(D). *Sensing* reflects the congressional judgment that asymptomatic periods do not eliminate the protections afforded by the ADA to individuals with substantially limiting episodic conditions.

Fifth Circuit — *Cannon v. Jacobs Field Servs. N. Am., Inc.*, 813 F.3d 586 (5th Cir. 2016). The Fifth Circuit held that objective medical restrictions and abnormal test results — without concurrent, active symptoms at the time of the adverse action — are sufficient to establish disability under the ADAAA. *Cannon* directly supports the proposition that a plaintiff need not be experiencing ongoing manifestations of his condition at the moment of termination or disqualification; rather, objective medical evidence of a substantially limiting episodic impairment suffices. The facts of the present case are closely analogous: Mr. Stephens's abnormal EKG, physician-imposed restrictions, and DOT disqualification constitute precisely the type of objective medical evidence the Fifth Circuit held to be sufficient in *Cannon*.

Seventh Circuit — *Gogos v. AMS Mech. Sys., Inc.*, 737 F.3d 1170 (7th Cir. 2013). The Seventh Circuit held that episodic hypertension and vision loss constituted disabilities under the ADAAA even though the plaintiff's symptoms were intermittent and were not present at the precise time of his termination. The Seventh Circuit's analysis confirms that the ADAAA's episodic-impairment provision operates independently of whether the plaintiff's condition is manifesting symptoms at the moment the adverse action occurs. The court's reasoning, consistent with the statutory text of 42 U.S.C. § 12102(4)(D), is directly at odds with the Eighth Circuit's ruling in the present case.

Ninth Circuit — *Shields v. Credit One Bank, N.A.*, 32 F.4th 1218 (9th Cir. 2022). The Ninth Circuit

held that episodic impairments qualify as disabilities under the ADAAA even when symptoms are not continuous, emphasizing the ADAAA's broad coverage mandate and the statutory command of 42 U.S.C. § 12102(4)(A)–(D). *Shields* underscores the settled rule in the Ninth Circuit that courts may not impose a contemporaneous-symptoms requirement that has no foundation in the statutory text.

These four circuits — the First, Fifth, Seventh, and Ninth — uniformly reject any requirement that a plaintiff demonstrate ongoing symptoms at the moment of an adverse employment action in order to establish disability under the ADAAA. The Eighth Circuit's panel decision is now an outlier among the circuits. The existence of this circuit split, in which litigants' rights under a federal statute depend upon the circuit in which they reside, is precisely the type of conflict that warrants this Court's review. *See* Supreme Court Rule 10(a).

III. The Eighth Circuit's Decision Conflicts with the Purpose and Structure of the ADAAA

The ADAAA's legislative history confirms that Congress enacted the statute with full awareness that episodic conditions — including cardiovascular impairments — were among the conditions Congress intended to protect. The congressional findings set forth in § 2(b) of the ADAAA expressly reject the “inappropriately high level of limitation” required by *Toyota Motor* and make plain that the “primary object of attention” in ADA cases should be whether covered entities have complied with their non-discrimination obligations, not whether the plaintiff's condition meets a demanding, symptom-focused threshold. ADA Amendments Act of 2008, § 2(b)(5), 122 Stat. at 3554.

The Eighth Circuit's decision resurrects the very standard Congress rejected: a narrow, symptom-focused inquiry that excludes individuals whose impairments are intermittent in manifestation but substantially limiting when active. Under the panel's ruling, a CDL driver with a medically disqualifying EKG — a condition that, when active, may cause loss of consciousness and poses grave safety risks in the operation of a commercial motor vehicle — is not disabled within the meaning of the ADA unless he is actively experiencing atrial fibrillation at the precise moment of termination or disqualification. This result

is absurd and directly contradicts the statute Congress wrote.

A medically disqualifying EKG raises the serious medical concern that the affected individual could lose consciousness due to insufficient blood reaching the heart — directly and substantially affecting the ability to safely operate a commercial motor vehicle. This is precisely the type of substantially limiting episodic impairment the ADAAA was designed to protect. The panel's decision nullifies the ADAAA for entire categories of workers — including CDL drivers with episodic cardiovascular conditions — and undermines the statute's remedial purpose.

The conflict between the Eighth Circuit's decision and the congressional intent underlying the ADAAA, standing alone, warrants this Court's review to ensure the uniform application of federal law across all circuits.

IV. The Question Presented Is of Exceptional Importance

28. The question presented in this petition — whether the ADAAA requires “ongoing symptoms” to establish disability for individuals with episodic impairments — is one of exceptional importance, affecting a large and identifiable class of American workers and raising a fundamental question about the proper scope of a major federal civil rights statute. *See* Supreme Court Rule 10.

29. The Eighth Circuit's decision, if allowed to stand, will directly and adversely affect the following categories of individuals and cases:

30. *CDL drivers and transportation workers.* Commercial truck drivers, bus drivers, and other transportation workers throughout the Eighth Circuit who hold CDLs and are subject to DOT medical certification requirements are disproportionately affected. DOT medical disqualifications, by their nature, are frequently issued for episodic cardiovascular conditions precisely because of the safety risk posed when such conditions become active during vehicle operation. Under the Eighth Circuit's ruling, these workers would be denied ADAAA protection unless they can demonstrate ongoing symptoms at the moment of disqualification — an impossible and irrational requirement given the episodic nature of their conditions.

31. *Individuals with episodic cardiovascular impairments.* Atrial fibrillation, hypertension, and other cardiovascular conditions are among the most prevalent episodic impairments in the American workforce. The Eighth Circuit's ruling would exclude from ADAAA coverage a significant proportion of workers whose conditions are medically serious but intermittently symptomatic.

32. *Workers subject to DOT medical regulation.* DOT medical disqualifications represent authoritative federal regulatory determinations that an individual's medical condition poses a risk of incapacitation in the operation of a commercial motor vehicle. The Eighth Circuit's decision renders DOT medical disqualification evidence irrelevant to the disability inquiry unless accompanied by simultaneous active symptoms — a result that is contrary to both the ADAAA and to the purposes of federal transportation safety regulation.

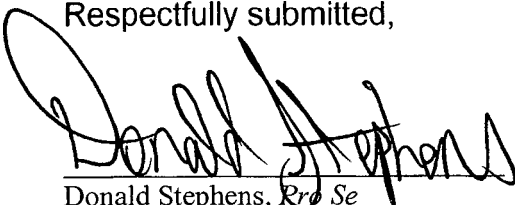
33. *Uniform application of the ADAAA.* A fundamental principle of federal law is that the rights guaranteed by federal statutes should not vary based on geography. The existence of a circuit split on the proper standard for evaluating episodic impairments under the ADAAA means that workers in the Eighth Circuit are afforded materially less protection than workers in the First, Fifth, Seventh, and Ninth Circuits. This Court's review is necessary to restore uniformity to the application of this significant federal statute.

34. For all of the foregoing reasons, the question presented is of exceptional importance warranting this Court's review under Supreme Court Rule 10.

CONCLUSION

The Petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald Stephens", is written over a horizontal line.

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