

02-479 MEDICAL BOARD OF CALIFORNIA v. HASON

Ruling below: CA 9, 279 F.3d 1167.

QUESTIONS PRESENTED

Michael Hason applied for licensure as a physician in California. Pursuant to its mission to protect the public health and safety, the Medical Board of California denied Hason's application. Hason claimed the Medical Board improperly denied his application on the basis of his mental illness, and he sued the Board in federal court, alleging a violation of Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq. The action was dismissed by the district court on grounds of sovereign immunity. However, reasoning that this Court's analysis in *Board of Trustees of the University of Alabama v. Garrett*, 531 U.S. 356 (2001) applied only to Title I of the ADA and not to actions arising under Title II of that Act, the Ninth Circuit reversed the district court's dismissal and held that California's denial of a medical license to Hason stated a cause of action for discrimination under Title II of the ADA. The questions presented are:

1. Does the Eleventh Amendment bar suit under Title II of the ADA against the California Medical Board for denial of a medical license based on the applicant's mental illness?

~~2. Does Title II of the ADA limit the authority of the California Medical Board to deny an applicant licensure as a physician because of the applicant's mental illness?~~

CERT. GRANTED: 11/18/02

Limited to question 1 presented by the petition.