Toyota Motor Manufacturing, Kentucky, Inc. v. Williams: Part of an Emerging Trend of Supreme Court Cases Narrowing the Scope of the ADA

Katherine R. Annas

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Toyota Motor Manufacturing, Kentucky, Inc. v. Williams:
Part of an Emerging Trend of Supreme Court Cases Narrowing the Scope of the ADA

Three weeks ago we celebrated our nation's Independence Day. Today, we're here to rejoice in and celebrate another "Independence Day," one that is long overdue. With today's signing of the landmark Americans with Disabilities Act, every man, woman, and child with a disability can now pass through once-closed doors into a bright new era of equality, independence and freedom.¹

At the signing ceremony for the Americans with Disabilities Act² ("ADA") in 1990, President George H.W. Bush was hopeful that equality for Americans with disabilities finally had been reached. The ADA, however, has failed to fulfill its promise. Since its enactment, the Supreme Court has begun to narrow the scope and coverage of the ADA. Consistent with this narrowing trend, on January 8, 2002, the Supreme Court limited the scope of the ADA further with its decision in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams.³ Toyota follows several Supreme Court decisions in the late 1990s which narrowed the ADA's definition of "disability."⁴ Toyota's holding furthers the emerging Supreme Court trend to

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⁴. For cases narrowing the scope of the ADA, see infra notes 43-61 and accompanying text (discussing Sutton v. United Airlines, Inc., 527 U.S. 471 (1999) (holding that employee plaintiffs who suffered from severe myopia were not disabled under the ADA because mitigating measures could be taken to improve their poor vision) and Murphy v. United Parcel Serv., Inc., 527 U.S. 516 (1999) (holding that employee plaintiff did not qualify as disabled under the ADA because plaintiff's high blood pressure did not substantially limit his major life activities when mitigating measures were taken)). For a further example of the inability of individuals with a disability to qualify as disabled under the ADA due to mitigating measures, see Albertson's, Inc. v. Kirkingburg, 527 U.S. 555 (1999) (stating that plaintiff's subconscious compensation for his monocular vision must be considered as a mitigating measure).
decrease the number of Americans with disabilities covered by the ADA.\(^5\)

Although the Court’s decision in \textit{Toyota} follows the trend to restrict the application of the ADA, this Recent Development argues that the Court failed to adhere to precedent regarding the issue of “major life activities” and incorrectly analyzed congressional intentions to provide a statute covering a broad range of disabilities.\(^6\) The Court should have followed precedent holding that the definition of “major life activities” under the ADA’s definition of “disability” was not to be restricted to \textit{daily} activities, but that \textit{significant} activities would satisfy the test.\(^7\)

In analyzing the Court’s incorrect decision in \textit{Toyota}, this Recent Development will first discuss the history of the ADA and its evolution from the Rehabilitation Act of 1973. It also will review the definition of “disability” under the ADA and the Supreme Court’s broad interpretation of “major life activities” in \textit{Bragdon v. Abbott}. Next, the Recent Development will discuss the recent trend to narrow the “disability” definition of the ADA, beginning with the decisions in \textit{Sutton v. United Airlines, Inc.}\(^8\) and \textit{Murphy v. United Parcel Service, Inc.}\(^9\) Against this background, this Recent Development will analyze the Supreme Court’s decision in \textit{Toyota} as establishing a trend of limiting the coverage of the ADA. Finally, this Recent Development will conclude by exploring the effects of the restrictive \textit{Toyota} decision.

The initial groundbreaking legislation for Americans with disabilities occurred with the passage of the Rehabilitation Act of 1973.\(^10\) The Act’s main purpose was to allocate funds to vocational

\(^5\) See infra notes 77–84 and accompanying text.
\(^6\) See infra notes 85–98 and accompanying text.
\(^7\) The holding in \textit{Bragdon v. Abbott}, 524 U.S. 624 (1998), broadly construed the term “major life activities,” which is part of the ADA’s three-pronged definition of a “disability.” \textit{Id}. at 638. The first prong of the ADA’s definition of “disability” is that an individual has a “physical or mental impairment that substantially limits one or more major life activities of such individual.” 42 U.S.C. § 12,102(2)(A) (2000). Therefore, the way in which the Court construes the term “major life activities” determines whether a person is disabled under the ADA.
rehabilitation programs, but the Act also included a single sentence prohibiting discrimination. This sentence provides that "[n]o otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, 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." Although the Rehabilitation Act was a milestone in the movement toward equality for Americans with disabilities, disabled rights advocates wanted greater legal protection. Advocates lobbied for legislation to combat discrimination, not only through federally funded programs, but also through private entities. Finally, in 1990, Congress increased the scope of civil rights protection for Americans with disabilities through the passage of the ADA. Specifically, the ADA protects individuals

11. Rehabilitation Act, § 3, 87 Stat. at 357; Eichhorn, supra note 10, at 1419.
13. Id.
14. The Rehabilitation Act of 1973 was the first piece of federal legislation that explicitly prohibited discrimination against people with disabilities. Eichhorn, supra note 10, at 1419. For further explanation of the Rehabilitation Act of 1973, see generally Kathleen D. Henry, Civil Rights and the Disabled: A Comparison of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 in the Employment Setting, 54 ALB. L. REV. 123 (1989) (reviewing the provisions of the Rehabilitation Act in the context of a comparison with the ADA). The Rehabilitation Act has been amended several times, including a 1974 amendment to redefine a "handicapped individual" as one who "(A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment." Rehabilitation Act Amendments of 1974, Pub. L. No. 93-516, § 111(a), 88 Stat. 1617, 1619 (codified as amended at 29 U.S.C. § 705(20)(B) (2000)).
16. 42 U.S.C. §§ 12,101-12,213 (2000); see Equality of Opportunity, supra note 1; see also Paul Steven Miller, The Evolving ADA, in EMPLOYMENT, DISABILITY, AND THE AMERICANS WITH DISABILITIES ACT 3, 11 (Peter David Blanck ed., 2000) ("Like the Civil Rights Act of 1964, the ADA signals a unique opportunity for all individuals to join together in breaking down long-standing myths about disabilities and building more inclusive communities."). The Act has been "hailed as the greatest single achievement of the disability rights movement to date." Eichhorn, supra note 10, at 1423. For a discussion on the history of the ADA, see id. at 1407–23 and Holmes, supra note 8. For a detailed discussion of the origins of the ADA, see Equality of Opportunity: The Making of the Americans with Disabilities Act, at http://www.ncd.gov/newsroom/publications/equality.html (last visited Sept. 5, 2002) (on
with disabilities from discrimination in employment,\textsuperscript{17} public services,\textsuperscript{18} and public accommodations and services operated by private entities.\textsuperscript{19}

Under the ADA’s three-pronged definition of “disability,” “[t]he term ‘disability’ means, with respect to an individual—(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment.”\textsuperscript{20}

In enacting the ADA, Congress used the same definition of “disability” as that provided in the Rehabilitation Act as amended in 1974.\textsuperscript{21} Congress intended the definition to be comprehensive and

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\textsuperscript{18} 42 U.S.C. §§ 12,131–12,165.

\textsuperscript{19} \textit{Id.} §§ 12,181–12,189. Americans with disabilities are ensured “access to public accommodations such as restaurants, hotels, shopping centers and offices.” \textit{Equality of Opportunity, supra} note 1 (quoting President George H.W. Bush’s statement of the main purposes of the ADA in his speech at the signing of the Act).

\textsuperscript{20} 42 U.S.C. § 12,102(2).

chose not to limit its scope by listing specific disabilities that the ADA would cover. Congress's intent to define "disability" to cover a broad range of individuals is important to the actions brought under the ADA because a plaintiff must qualify as "disabled" to receive protection.

Although Toyota follows the Supreme Court's recent trend of narrowing the scope of the ADA, the Toyota holding departs from the precedent set in Bragdon v. Abbott that established a broad standard for determining what constitutes a "major life activity." The Supreme Court's 1998 decision in Bragdon evinced hope of a more permissive interpretation of the "disability" definition under the ADA, when it broadly construed the scope of major life activities.

In Bragdon, a woman with HIV sued her dentist under the public accommodation section of the ADA for refusing to fill her cavity at his office. The Court held that the HIV positive woman qualified as disabled under the ADA because she was limited in the major life activity of reproduction. Prior to Bragdon, courts were split over the issue of reproduction as a major life activity and employed different interpretations of the meaning of "major life activities."


23. "[T]he way in which the statute defines 'disability' can make or break a given claim." Eichhorn, supra note 10, at 1427.

24. See infra notes 43-61 and accompanying text.


27. Bragdon, 524 U.S. at 629 (stating that the dentist offered to fill the cavity in a hospital at no extra charge except for the hospital fee for using its facilities).

28. Id. at 641.

these prior decisions, courts interpreted "major life activities" in two different ways: "(1) a broad definition—a significant activity that is 'comparatively important,' or (2) a narrow definition—a significant activity that is 'engaged in with the same degree of frequency as the listed activities.' "  

An example of a decision denying reproduction as a major life activity and employing a narrow definition of "major life activities" is Zatarain v. WDSU-Televisions, Inc. In Zatarain, the court reasoned that reproduction was not a major life activity because it was not an activity in which a person engaged on a daily basis. In a contrary case, Pacourek v. Inland Steel Co., Inc., the court held that reproduction was a major life activity and condemned the decision in Zatarain as interpreting the definition of "major life activities" "far too narrowly." The Pacourek court declined to limit major life activities to daily activities and held that a broader interpretation focusing on the significance of an activity should be the standard.

The Supreme Court resolved the issue of how to interpret "major life activities" and, specifically, whether reproduction is a major life activity, in its decision in Bragdon. The Court followed reasoning similar to that used in the Pacourek case and broadly defined "major life activities" in terms of an activity's significance. In its analysis, the Court gave meaning to "major life activities" beyond those listed in the Rehabilitation Act regulations. By holding that an activity's significance must be weighed, "the opinion permit[ted] lower courts to assess the comparative significance of any activities that the

30. Oquist, supra note 26, at 1411-12 (explaining that the second definition is more narrow because the activity, in addition to being significant, must also be engaged in with great frequency to daily life).
32. id. at 243 ("[A] person is not called upon to reproduce throughout the day, every day.").
34. Id. at 804.
35. See id.
36. Bragdon v. Abbott, 524 U.S. 624, 638 (1998) ("[T]he plain meaning of the word 'major' denotes comparative importance" and "suggest[s] that the touchstone for determining an activity's inclusion under the statutory rubric is its significance.").
37. See Eichhorn, supra note 10, at 1440-41. The Department of Health and Human Services issued regulations defining "major life activities" under the Rehabilitation Act: " 'Major life activities' means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." 45 C.F.R. § 84.3(j)(2)(ii) (2002). After the passage of the ADA, the EEOC was given authority to enforce Title I regarding employment discrimination issues and the EEOC has adopted verbatim the definition of "major life activities" under the Rehabilitation Act regulations. See 29 C.F.R. § 1630.2(h)(2)(i) (2002).
plaintiffs might raise.”\textsuperscript{38} Thus, the Court broadened the “disability” definition under the ADA by holding that reproduction is a major life activity and defining a “major life activity” as one that is \textit{significant}.\textsuperscript{39} However, this broad interpretation of “major life activities” was short-lived; any hope of broader coverage for individuals under the ADA after \textit{Bragdon} was destroyed in the subsequent Supreme Court cases, which limited the range of qualifying disabilities.\textsuperscript{40}

Unfortunately for Americans with disabilities, over the past several years, the Supreme Court began a new trend in interpreting the definition of “disability,” which prohibits many potential ADA claims.\textsuperscript{41} In 1999, the Supreme Court began to interpret the scope of the definition in favor of employers by restricting the number of individuals who qualify as disabled under the ADA.\textsuperscript{42} These 1999 cases started a trend that narrowed the scope of the ADA.

In 1999, the narrowing trend began with the Supreme Court decisions in \textit{Sutton v. United Airlines, Inc.}\textsuperscript{43} and \textit{Murphy v. United Parcel Service, Inc.}\textsuperscript{44} In \textit{Sutton}, twin sisters sued United Airlines for

\begin{itemize}
  \item\textsuperscript{38} Eichhorn, \textit{supra} note 10, at 1440.
  \item\textsuperscript{39} \textit{Bragdon}, 524 U.S. at 641.
  \item\textsuperscript{40} \textit{See infra} notes 43–84 and accompanying text.
  \item\textsuperscript{41} \textit{See} Toyota Motor Mfg., Ky., Inc. v. Williams, 534 U.S. 184, 184 (2002) (holding that major life activities are those activities of central importance to daily life); \textit{Sutton v. United Airlines, Inc.}, 527 U.S. 471, 471–72 (1999) (holding that employee plaintiffs who suffered from severe myopia were not disabled under the ADA because mitigating measures could be taken to improve their poor vision); \textit{Murphy v. United Parcel Serv., Inc.}, 527 U.S. 516, 516–17 (1999) (holding that employee plaintiff did not qualify as disabled under the ADA because plaintiff’s high blood pressure did not substantially limit his major life activities when mitigating measures were taken).
  \item\textsuperscript{42} \textit{Sutton} and \textit{Murphy} narrow the scope of the ADA and are a departure from the broader definition of “disability” in \textit{Bragdon}. However, \textit{Bragdon} carried only a narrow majority of the Court; the decision was 5–4. Justice Kennedy delivered the opinion of the Court, and Justices Stevens, Souter, Ginsburg, and Breyer joined. \textit{Bragdon}, 524 U.S. at 627. In \textit{Sutton} and \textit{Murphy}, the decisions were 7–2, with only Justice Stevens filing a dissenting opinion in each case, in which Justice Breyer joined. \textit{Sutton}, 527 U.S. at 474; \textit{Murphy}, 527 U.S. at 517. Finally, in \textit{Toyota}, the Court delivered a unanimous decision, thereby cementing its progression toward a more narrow interpretation of the ADA. \textit{Toyota}, 534 U.S. at 186.
  \item\textsuperscript{43} \textit{Sutton}, 527 U.S. at 471–72. For a more detailed discussion of the \textit{Sutton} case, see Holmes, \textit{supra} note 8.
  \item\textsuperscript{44} \textit{Murphy}, 527 U.S. at 516; \textit{see} Mark C. Rahdert, \textit{Arline’s Ghost: Some Notes on Working as a Major Life Activity Under the ADA}, 9 TEMP. POL. & CIV. RTS. L. REV. 303, 303 (2000) (stating that \textit{Sutton} and \textit{Murphy} “reflect growing judicial concern over the potential breadth of the beneficiary class of Americans with Disabilities Act of 1990”).
\end{itemize}
terminating their interviews to become pilots because they suffered from severe myopia.\textsuperscript{45} Although the use of corrective lenses gave the women perfect vision, United Airlines refused to hire them because they did not meet its minimum uncorrected vision requirement.\textsuperscript{46} The plaintiffs argued that the Court should follow the Equal Employment Opportunity Commission ("EEOC") guidelines, which stated that corrective measures were not to be taken into account in determining whether an individual was "substantially limited in a major life activity."\textsuperscript{47} The Court held, contrary to the EEOC,\textsuperscript{48} that corrective and mitigating circumstances should be taken into consideration in determining whether someone is considered to be disabled.\textsuperscript{49} Consequently, the Court determined that the women were not disabled under the ADA.\textsuperscript{50}

On the same day the Supreme Court handed down \textit{Sutton}, it decided \textit{Murphy}. In \textit{Murphy}, UPS fired one of its employees because his blood pressure exceeded the Department of Transportation's requirements for drivers of commercial vehicles.\textsuperscript{51} Reiterating the \textit{Sutton} holding, the Supreme Court affirmed the court of appeals's holding that the plaintiff was not disabled under the ADA.\textsuperscript{52} The Court stated that mitigating measures must be taken into account when determining whether an individual is disabled under the ADA.\textsuperscript{53} Because the plaintiff was not substantially limited in any

\begin{thebibliography}{53}
\bibitem{45} \textit{Sutton}, 527 U.S. at 475-76.
\bibitem{46} \textit{Id.}
\bibitem{47} \textit{Id.} at 481.
\bibitem{48} The Supreme Court has not decided what level of deference should be given to the EEOC guidelines regarding the ADA. See \textit{Toyota Motor Mfg., Ky., Inc. v. Williams}, 534 U.S. 184, 194 (2002); \textit{see also Sutton}, 527 U.S. at 471, 480 (noting that the parties to the suit accepted the EEOC regulations as valid and, therefore, the Court did not consider what deference should be given to the guidelines). \textit{But see Bragdon v. Abbott} 524 U.S. 624, 646 (1998) (giving deference to the Justice Department's regulations regarding Title III of the ADA in its decision that HIV substantially limits the major life activity of reproduction); \textit{Chevron U.S.A., Inc. v. Natural Res. Def. Council, Inc.}, 467 U.S. 837, 844 (1984) (stating that agency regulations are to be "given controlling weight unless they are arbitrary, capricious, or manifestly contrary to the statute"). Following the reasoning that the "ADA is supposed to follow legislative history from the Rehabilitation Act ... the Court should be bound by agency deference and would be required to give stronger weight to the EEOC Interpretive Guidelines." Allison Duncan, Note, \textit{Defining Disability in the ADA: Sutton v. United Airlines, Inc.}, 60 L.A. L. REV. 967, 975 (2000).
\bibitem{49} \textit{Sutton}, 527 U.S. at 475; Phil Clements et al., \textit{United States: Supreme Court Restricts ADA Definition of "Disability"}, MONDAQ BUS. BRIEFING, July 20, 2001, available at 2001 WL 2824823:
\bibitem{50} \textit{Sutton}, 527 U.S. at 475.
\bibitem{51} \textit{Murphy v. United Parcel Serv., Inc.}, 527 U.S. 516, 520 (1999).
\bibitem{52} \textit{Id.} at 521.
\bibitem{53} \textit{Id.}
major life activities when he used medication to control his hypertension, he did not qualify as disabled under the ADA.54

The Court’s decisions in Sutton and Murphy narrowed the scope of the ADA by excluding those persons with disabilities who use mitigating measures. For example, an individual suffering from epilepsy was denied coverage under the ADA because he took medicine to control his seizures.55 The court followed Sutton’s reasoning and denied the man coverage, despite evidence that he suffered seizures at least once a week, even while taking medication.56 In addition to individuals with epilepsy, courts have denied coverage under the ADA for persons using mitigating measures to combat sleep apnea57 and blood cancer.58 After Sutton and Murphy, individuals with disabilities who take medication or use other mitigating measures will not be able to rely on the ADA to protect them from discrimination. These individuals, like the employees in Sutton and Murphy, will fail to qualify under the ADA but may still be considered too disabled to perform their jobs. If the Court continues to reduce the coverage of the ADA, more and more Americans with disabilities will be excluded from the ADA’s coverage and be subjected to this “Catch-22” situation.59

The Supreme Court began restricting ADA coverage when it held that individuals who can take mitigating measures to help their disabilities are not qualified as disabled under the ADA. The limitation of ADA coverage in Sutton and Murphy has emerged as a trend with the Supreme Court’s most recent decision, Toyota Motor

54. Id.
56. Id. at 452–53.
59. See Holmes, supra note 8, at 443 (stating that Sutton creates a “Catch-22” situation); Julie McDonnell, Note, Sutton v. United Air Lines: Unfairly Narrowing the Scope of the Americans with Disabilities Act, 39 BRANDEIS L.J. 471, 472 (2000) (“These decisions create the absurd situation where a person is disabled enough to be fired, but not disabled enough to seek redress under the ADA.”). Holmes also stresses in her article that individuals who use mitigating measures are not completely healed and may need reasonable accommodations at work, which they will be unable to get under the ADA because they are not covered. Holmes, supra note 8, at 443. “For example, a diabetic individual may require additional breaks throughout the work day for insulin injections. An employer could deny an employee reasonable accommodations and not fear liability for discrimination because the employee would be excluded from the protection provided by the ADA according to Sutton.” Id.
Manufacturing, Kentucky, Inc. v. Williams. In Toyota, the Court contradicted its own holding in Bragdon and restricted the definition of "disability" by limiting the definition of "major life activity" from an activity that is significant, to an activity that is daily.

The plaintiff in Toyota, Williams, had been an assembly line worker for Toyota since 1990. She brought suit against Toyota under the ADA, alleging that Toyota failed to reasonably accommodate her carpal tunnel syndrome. Soon after beginning her job at Toyota, Williams developed carpal tunnel syndrome, then Toyota assigned her to modified jobs to accommodate her condition. Eventually, Williams was assigned to the "Quality Control Inspection Operations" ("QCIO") team. The QCIO team job consisted of four tasks: assembly paint, second inspection paint, shell body audit, and ED surface repair. Williams performed only the first two tasks, which did not entail much use of her hands and arms.

Starting in 1996, Toyota required its employees to rotate through all four stations. Williams, therefore, was required to perform tasks using her hands and arms for extended periods. Often Williams had to hold her arms around shoulder height for several hours, causing severe pain in her shoulders and neck. Williams was diagnosed with numerous medical conditions affecting her upper body; thus, she

60. See McDonnell, supra note 59, at 483–85 (arguing that the Sutton and Murphy decisions narrowed the scope of the ADA); Lambda Legal Defense and Education Fund, U.S. Supreme Court Further Constricts Power of the ADA (Jan. 9, 2002), at http://www.lambdalegal.org/cgi-bin/iowa/documents/record?record=949 (on file with the North Carolina Law Review) [hereinafter Lambda] (stating that the ruling in Toyota, "refusing to recognize workplace-related limitations, further erodes the definition of 'disability' and the strength of employee protections under the Americans with Disabilities Act").
62. Id. at 187.
63. Id. at 187–90.
64. Id. at 188.
65. Id.
66. Id.
67. Id. Williams did not perform the other two tasks because they caused her condition to worsen. Id. at 189; Juan Otero, Supreme Court Clarifies 'Disabled Worker' Under ADA, NATION'S CITIES WKLY., Jan. 14, 2002, at 2.
68. Toyota, 534 U.S. at 189.
69. Id.
70. Id.
71. Williams was diagnosed with "myotendinitis bilateral periscapular, an inflammation of the muscles and tendons around both of her shoulder blades; myotendinitis and myositis bilateral forearms with nerve compression causing median
asked Toyota to accommodate her medical problems by placing her in the original jobs she did with the QCIO team, namely, those positions requiring little or no use of her hands and arms.\textsuperscript{72} According to Williams, Toyota refused her request.\textsuperscript{73} As a result of Toyota’s refusal to accommodate her medical condition, Williams filed suit under the ADA.

The Court of Appeals for the Sixth Circuit held that Williams qualified as disabled under the ADA.\textsuperscript{74} According to the court, performing manual tasks constituted a major life activity.\textsuperscript{75} The court found that Williams was unable to perform numerous manual tasks that required extensive use of her hands and arms.\textsuperscript{76} Because Williams could not perform a class of manual tasks, she satisfied the ADA’s requirement of being substantially limited in a major life activity.

The Supreme Court reversed the court of appeals decision and held that Williams failed to qualify as disabled under the ADA.\textsuperscript{77} In so doing, the Court revisited the question raised in \textit{Bragdon} as to what constitutes a “major life activity” under the ADA’s definition of “disability.” Instead of following its decision in \textit{Bragdon}, the majority chose to narrow the definition of a “major life activity.” The Court held that a major life activity “refers to those activities that are of central importance to daily life,”\textsuperscript{78} instead of those activities that are significant. The Supreme Court noted that the court of appeals wrongly focused on Williams’s “inability to perform manual tasks associated only with her job.”\textsuperscript{79} Rather, the Court held that the correct inquiry was whether Williams could perform “tasks of central

\textsuperscript{72} \textit{Id.}
\textsuperscript{73} \textit{Id.}
\textsuperscript{75} \textit{Id.} The appellate court reasoned that Williams was substantially limited in the major life activity of performing manual tasks because Williams showed that her “manual disability involves a ‘class’ of manual activities affecting the ability to perform tasks at work.” \textit{Id.} Unlike the Supreme Court, the appellate court looked at the plaintiff’s ability/ inability to perform tasks related to her work, not daily chores. \textit{Id.} In its reasoning, the court relied upon the wording of the ADA, the EEOC’s interpretation of the ADA, and the Supreme Court’s analysis of “working” under \textit{Sutton}. \textit{Id.} at 842–43.
\textsuperscript{76} \textit{Id.} at 842.
\textsuperscript{77} \textit{Toyota}, 534 U.S. at 203.
\textsuperscript{78} \textit{Id.} at 197.
\textsuperscript{79} \textit{Id.} at 200.
importance to people's daily lives,” such as bathing or brushing teeth.80

Justice O'Connor, writing for the majority, stated that the terms within the definition of “disability” had to be strictly interpreted “to create a demanding standard for qualifying as disabled.”81 Her statement confirmed the Court's earlier actions in *Sutton* and *Murphy*, which narrowed the scope of individuals qualifying as disabled under the ADA.82 Justice O'Connor proclaimed that Congress did not intend for everyone with a disease or impairment to be protected under the ADA.83 The Court reasoned that Congress's statement at the beginning of the ADA finding that forty-three million Americans have disabilities meant that the number of people covered by the ADA could not exceed that finding.84

The Court's view, however, contradicts Congress's true intent that the ADA cover a broad range of disabilities. Congress's intent is evidenced by statements made in the congressional record during the process of enacting the ADA,85 as well as by the wording of the ADA itself.86 According to Representative Steny Hoyer, who championed the ADA in the House of Representatives, Congress stated that the number of disabled Americans was forty-three million to show the breadth of the legislation coverage, not to limit it.87 He also noted that “it was important to protect not only people who had genuine

80. *Id.* at 202.
81. *Id.* at 197.
82. *See supra* notes 43–59 and accompanying text.
83. *Toyota*, 534 U.S. at 197 (“If Congress intended everyone with a physical impairment that precluded the performance of some isolated, unimportant, or particularly difficult manual task to qualify as disabled, the number of disabled Americans would surely have been much higher.”).
84. *Id.*
85. *See infra* note 87.
86. *See infra* notes 89–92 and accompanying text; *see also* Eichhorn, *supra* note 10, at 1434 (citing a recent study by the American Bar Association's Commission on Mental and Physical Disability Law as saying that the “disability” definition of the ADA is “much more restrictive than those who drafted and supported the ADA had thought it would be”).
87. Steny H. Hoyer, Editorial, *Not Exactly What We Intended, Justice O'Connor*, WASH. POST, Jan. 20, 2002, at B1; *see also* 136 CONG. REC. E1630 (daily ed. May 21, 1990) (statement of Rep. Glenn Poshard of Illinois in House of Rep.). In support of the ADA, Representative Poshard of the Illinois House of Representatives stated that the United States was “no longer willing to ignore the 43 million or more Americans who may be described as disabled.” *Id.* One could conclude that Congress's forty-three million number is much higher than the number of those who are severely disabled and, therefore, Congress must have intended to include within the ADA those who were not severely disabled.
trouble functioning normally, but people whose employers might wrongly perceive as being substantially impaired."

The wording used in the ADA also shows Congress's intent to cover a broad number of individuals with disabilities.\textsuperscript{89} The language of the ADA demonstrates the hope for an encompassing statute by stating that its purpose is to "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."\textsuperscript{90} Furthermore, the definition of "disability" shows Congress's intent to encompass a broad range of disabilities. Congress used the Rehabilitation Act's definition of "disability" so that the definition could adapt to presently unknown future disabilities.\textsuperscript{91} If Congress meant for the definition to be adaptable, surely it foresaw the occurrence of new disabilities and, as a result, a greater number of disabled individuals in the future. Furthermore, by including the "record of" and "regarded as" categories in its definition of "disability," Congress expected the ADA to protect individuals without, in the Court's words, "actual disabilities," meaning those individuals not counted in the forty-three million number relied upon by the Toyota majority.\textsuperscript{92}

Not only is the Court's analysis in Toyota contrary to the congressional purpose behind the ADA, it is also contrary to the reasoning in Bragdon, where the Court specifically attached a broad definition to the term "disability" through its interpretation of "major life activities."\textsuperscript{93} In Bragdon, the Court relied upon the Rehabilitation Act in its analysis,\textsuperscript{94} stating that "[r]ather than enunciating a general principle for determining what is and is not a major life activity, the Rehabilitation Act regulations instead provide a representative list, defining the term to include 'functions such as

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\item \textsuperscript{88} Hoyer, supra note 87. Hoyer further proclaimed: "Is this what we had in mind when we passed the ADA—that lawyers for businesses and individuals should spend their time and money arguing about whether people can brush their teeth and take out the garbage? Not at all." \textit{Id.}
\item \textsuperscript{89} "Nowhere does the language of the ADA require that its application be limited to a narrow class of individuals." McDonnell, supra note 59, at 484.
\item \textsuperscript{90} 42 U.S.C. § 12,101(b)(1) (2000).
\item \textsuperscript{91} See supra note 22 and accompanying text.
\item \textsuperscript{92} See Sutton v. United Airlines, Inc., 527 U.S. 471, 512 (1999) (Stevens, J., dissenting); see also Holmes, supra note 8, at 444 (discussing the "forty-three million number"); McDonnell, supra note 59, at 483-84 (same); supra note 87 and accompanying text (same).
\item \textsuperscript{93} See supra notes 36-39 and accompanying text.
\end{itemize}
caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.'

Contrary to Bragdon, the Court in Toyota imposed its own standard for determining what constitutes a "major life activity." Justice O'Connor specifically stated that major life activities are "those activities that are of central importance to daily life." The Court in Bragdon, however, found that activities need not involve public, economic, or daily activities to be "major" life activities. Once again, the Toyota Court broke from precedent by focusing on activities that are performed on a "daily" basis.

The Court's decision in Toyota to limit the coverage of the ADA will have a significant impact on the number of individuals who will qualify as disabled under the ADA. The impact of Toyota is important for society to understand because it further limits an already ineffective ADA. Studies conducted in the mid-1990s, before the onset of the recent trend of narrowing the scope of the ADA, showed that plaintiffs under the ADA lost at least ninety percent of their actions, "mostly on the grounds that they are not disabled enough." These statistics will certainly rise following the Toyota decision. The ADA was enacted to combat discrimination against individuals with disabilities who historically had been isolated by society. Although the ADA was hailed as the most important civil

95. Id.; see 45 C.F.R. § 84.3(j)(2)(ii) (2002).
97. Bragdon, 524 U.S. at 638. The Toyota Court upheld the same argument that it struck down in Bragdon. The dentist in Bragdon argued that the women with HIV did not meet the "major life activities" part of the "disability" definition because "Congress intended the ADA only to cover those aspects of a person's life which have a public, economic, or daily character." Id. (citations omitted). According to the dentist's argument, although reproduction was important, it could not be deemed a major life activity because it was not a public, economic, or daily activity. Id. The Court in Bragdon responded that "[n]othing in the definition suggests that activities without a public, economic, or daily dimension may somehow be regarded as so unimportant or insignificant as to fall outside the meaning of the word 'major.'" Id. The Supreme Court in Toyota ignored the decision in Bragdon and held that major life activities must be "daily" activities. Toyota, 534 U.S. at 197.
98. Toyota, 534 U.S. at 197.
99. "With a clearer and more constricted concept of 'disability' now in place, nonsevere impairments that previously may have been thought to be covered by the ADA should now be found outside the scope of the statute's protection." Jeffrey S. Klein & Nicholas J. Pappas, Constricted Coverage of American with Disabilities Act After 'Toyota,' N.Y. L.J., Feb. 4, 2002, at 3.
100. Hoyer, supra note 87; see also Miller, supra note 16, at 13 n.19 (citing a 1998 American Bar Association study showing that employers have won ninety-two percent of ADA cases under Title I).
rights legislation since the Civil Rights Act of 1964,\textsuperscript{102} it has not lived up to its promise. The \textit{Toyota} decision, like \textit{Sutton} and \textit{Murphy}, limits the class of individuals who may qualify as disabled under the ADA. Qualification is the only way an individual will receive protection under the ADA.\textsuperscript{103} Although the ADA is civil rights legislation and carries the same remedies as those in the Civil Rights Act,\textsuperscript{104} it is much more difficult for a plaintiff to establish coverage under the ADA. The ADA has stringent eligibility requirements, unlike the Civil Rights Act, that must be passed in order for an individual to be qualified as “disabled.”\textsuperscript{105} When the Supreme Court limited the scope of the “disability” definition in \textit{Toyota},\textsuperscript{106} it made it even more difficult for an individual to be covered under the ADA.

The holding in \textit{Toyota} “suggests that people must be ‘truly disabled,’ i.e., visibly and functionally unable to perform in certain specific, socially expected ways before they are entitled to the protection of the law.”\textsuperscript{107} Individuals with less obvious disabilities, like Williams’s carpal tunnel syndrome, will have difficulty meeting the rigid requirements of the new standard for what constitutes a “major life activity.” Unfortunately, those with less obvious disabilities are often discriminated against because an employer may assume that the individual is faking the disability or because the employer can discriminate against someone who is not visibly disabled, often without penalty.\textsuperscript{108}

\textit{Toyota} will affect more than just those people with disabilities similar to those of Williams. Because the Court defined a “major life activity” as one that is of central importance to daily life,\textsuperscript{109} disabled

\begin{footnotes}
\item[103] See 42 U.S.C. § 12,102(2).
\item[104] See supra note 16.
\item[106] Toyota Motor Mfg., Ky., Inc. v. Williams, 534 U.S. 184, 197 (2002) (finding that major life activities were those which are “daily,” not “significant”).
\item[109] Toyota, 534 U.S. at 197.
\end{footnotes}
individuals now must satisfy an objective standard of "disability." People suffering from HIV, for example, will have difficulty showing that they are substantially limited in an activity that is "of central importance to daily life." A person "newly diagnosed with HIV whose 'central' life activities remain largely unaffected could face insurmountable difficulties passing the court's disability test." Furthermore, one could argue that the Court's reasoning in Toyota overrules the Bragdon decision concerning HIV because reproduction, which Bragdon held to be a major life activity, is not of central importance to daily life. Although reproduction is vital to society, most women only reproduce once or twice in their lives, while others never reproduce. Thus, under the Court's temporal view, reproduction would not satisfy the Toyota standard because no woman reproduces on a daily basis.

Another possible consequence of Toyota is the erosion of "working" as a major life activity. Courts reviewing decisions under the ADA have relied upon "working" as a major life activity more than any other major life activity; its elimination would significantly harm individuals with disabilities. Whether "working" constitutes a major life activity was briefly addressed in Sutton, but the Court did not

110. This objective standard, that the activity must be of central importance to daily life, will not encompass as many major life activities as the "significant activity" standard in Bragdon because, after Toyota, a major life activity must be a daily activity.
111. Toyota, 554 U.S. at 197; see Lambda, supra note 60 ("Application of the Court's reasoning to a person with HIV could leave many without a viable legal remedy for a wide range of discriminatory exclusions from work and social activities.").
112. See Lambda, supra note 60.
113. For an argument that reproduction is not a major life activity because it is not consistent with the idea that major life activities are performed with some frequency, see Oquist, supra note 26, at 1395–1401.
115. See Oquist, supra note 26, at 1395–1401.
116. See, e.g., Sutton v. United Airlines, Inc., 527 U.S. 471, 490–94 (1999) (discussing plaintiffs' claim that their poor eyesight substantially limited them in the major life activity of "working"); Soileau v. Guilford of Maine, Inc., 928 F. Supp. 37, 49 (D. Me. 1996) (holding that plaintiff employee suffering from chronic depression was not substantially limited in the major life activity of "working" because plaintiff could perform other jobs and his impairment did not prohibit him from other employment), aff'd, 105 F.3d 12 (1st Cir. 1997).
not expressly rule on the matter. The Court in Sutton did state, however, that "there may be some conceptual difficulty in defining 'major life activities' to include work," leading one to believe that the Court will rule on the issue of "working" in the future.

Though the majority in Toyota did not specifically decide whether "working" qualifies as a major life activity, the Court's ruling that manual working tasks were not such activities further erodes "working" as a major life activity. Although the majority of Americans spend most of their adult lives working, the Court failed to consider that the ability to perform a task that provides a person with his or her livelihood is a major life activity. Rather, the Court emphasized the importance of household tasks conducted outside of the workplace. The Court's suggestion that simple household chores are more important than a person's work is contrary to common sense, as well as legislative history. Toyota's reasoning clearly shows that the Court does not believe that work and work-related activities are so central to a person's daily life as to qualify as major life activities.

The limited scope of the "disability" definition and the failure to recognize the importance of work in an individual's daily life diluted the ADA's protection from discrimination by employers. Although the ADA prohibits employer discrimination of an individual based on a disability, the holding in Toyota may increase employer discrimination. The ADA will not prevent employer discrimination unless someone is visibly disabled. Moreover, employers will be less willing to provide accommodations for employees with ergonomic injuries because these people will not likely qualify as disabled under the ADA. Overall, the holding in Toyota will protect employers more than the disabled individuals the ADA was designed to protect.

Toyota Motor Manufacturing, Kentucky, Inc. v. Williams is a landmark decision in disability law and will have lasting effects on

117. Sutton, 527 U.S. at 492. The Court did not determine whether "working" was a major life activity because the parties conceded that "working" was a major life activity. Id.
118. Id.
120. Id.
121. Ervin, supra note 108; see also Rahdert, supra note 44, at 330 (discussing the common-sense arguments in favor of considering working as a major life activity).
123. The Rehabilitation Act Regulations specifically list "working" as an example of a major life activity. 45 C.F.R. § 84.3(j)(2)(ii) (2002); Eichhorn, supra note 10, at 1436.
124. Otero, supra note 67.
litigation under the Americans with Disabilities Act. With the holding in Toyota, the Supreme Court has furthered the trend of limiting coverage under the ADA by requiring that individuals meet the high standard of having a disability that affects their daily activities. Although part of a trend, the holding in Toyota failed to adhere to the precedent established in Bragdon v. Abbott, where the Court held that the definition of “disability” should be interpreted broadly to include any significant activity as a major life activity. Toyota’s holding is also inconsistent with the purpose of the ADA and the original intentions of Congress. Congress created the ADA to combat discrimination and protect the civil liberties of disabled individuals. The only way to combat the Court’s misguided restrictive definition of “disability” is for Congress to pass legislation further defining “disability” in accordance with its original intentions.

KATHERINE R. ANNAS