



The Bazelon Center, Disability Rights Groups, and Civil Rights Groups Urge Supreme Court to Uphold Protections Against Disability Discrimination

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WASHINGTON — Disability rights organizations filed friend-of-the-court briefs today urging the Supreme Court to uphold disability rights by rejecting CVS’s attempt to dismantle non-discrimination protections under Section 504 of the Rehabilitation Act.

The case, *CVS v. Doe*, involves a CVS-managed prescription drug plan that requires people who need “specialty medications” to receive them by mail, instead of at their local pharmacy. Five individuals living with HIV sued over the requirement, arguing that it effectively prevents them from receiving needed care for their condition and represents discrimination based on their disability.

CVS is arguing in the case that Section 504 of the Rehabilitation Act does not protect against claims of “disparate impact,” or when neutral policies or practices have disproportionate impacts on a protected class, in this case people with disabilities.

The [amicus brief filed today](#) by the [Bazelon Center for Mental Health Law](#), [Paralyzed Veterans of America](#), [National Disability Rights Network](#), and eight other disability rights organizations argues that the Supreme Court should not decide the issue of whether disparate impact claims are permitted under Section 504 in this case because the claims brought are, at their core, claims concerning differential treatment and failure to make reasonable accommodations rather than disparate impact claims

In the [amicus brief filed today](#) by the [American Civil Liberties Union](#), the [American Association of People with Disabilities](#), [The Arc of the United States](#), the [Civil Rights Education and Enforcement Center](#), and the [Disability Rights Education & Defense Fund](#), the groups argue that long-standing Supreme Court precedent makes clear that most discrimination against people with disabilities comes from “benign neglect” or thoughtlessness — and that removing the ability to get relief from such discrimination would undermine the entire purpose and history of Section 504. The Court explained in *Alexander v. Choate* that congressional intent would be decimated if Section 504 were interpreted to require intent to discriminate.

“CVS’s position is not just wrong on the law, it’s dangerous. Disparate impact claims are the backbone of disability rights litigation. If the Supreme Court agrees with CVS, disability rights could be set back decades,” said **Susan Mizner, director of the ACLU Disability Rights Program**. “CVS cannot in good faith say it supports people with disabilities while simultaneously urging the Supreme Court to gut disability rights. The company should withdraw this case from the Supreme Court docket.”

“The Section 504 regulations were finalized in 1977 after years of serious negotiation between the disability community and government and business representatives,” said **DREDF board member Judith Heumann**, a leader of the disability rights movement who is featured in the 2020 documentary *Crip Camp*. “We knew that we had to cover neutral policies — we are so often excluded that way. So that’s what we did. It was foundational.” **Heumann** was a key witness during the hearings leading up to the Americans with Disabilities Act, and testified about her many experiences with discrimination based on paternalism, restrictive criteria, and stereotypes that were couched in neutral terms.

"This is not the case in which the Court should decide this important issue. The Supreme Court should simply let the Court of Appeals' decision stand." says **Jennifer Mathis, Director of Policy and Legal Advocacy at the Bazelon Center for Mental Health Law**.

“The protections of the Rehabilitation Act have existed for almost 50 years. Disabled people rely on the protections within the Rehabilitation Act and section 1557 of the Affordable Care Act to assert our right to demand accountability and recourse when we experience discrimination, said **Maria Town, President and CEO of the American Association of People with Disabilities**. Despite the progress spurred by both disability community advocacy and the presence of these civil rights laws, discrimination is still a daily occurrence for most disabled people. If the Supreme Court sides with CVS, people with disabilities will lose one of the primary avenues we have to defend our rights and seek justice.”

The Rehabilitation Act was passed in 1973, and alongside the Americans with Disabilities Act, established safeguards against disability discrimination. As a result of these laws, society has become increasingly accessible for people with disabilities. Before the Rehabilitation Act, people with disabilities had no resource to challenge discriminatory practices. A decision in favor of CVS would eviscerate the ability to challenge policies and practices that have a disproportionate impact on people with disabilities.

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About the Bazelon Center for Mental Health Law: The Bazelon Center advocates across the country for the civil rights of adults and children with mental disabilities, through litigation, federal and state policy, public education, and technical assistance to states and localities. Formerly the Mental Health Law Project, the Bazelon Center has played a role in numerous disability rights cases in the U.S. Supreme Court, including in *Olmstead v. L.C.*, which established that the unnecessary segregation of people with disabilities is discrimination under the ADA, and *Endrew F. v. Douglas County School District RE-1*, which raised the bar for what public schools must do to educate students with disabilities. Learn more at Bazelon.org.