

THOMAS, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 02–1667

TENNESSEE, PETITIONER *v.* GEORGE LANE ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[May 17, 2004]

JUSTICE THOMAS, dissenting.

I join THE CHIEF JUSTICE’s dissent. I agree that Title II of the Americans with Disabilities Act of 1990 cannot be a congruent and proportional remedy to the States’ alleged practice of denying disabled persons access to the courts. Not only did Congress fail to identify any evidence of such a practice when it enacted the ADA, *ante*, at 6, 10, Title II regulates far more than the provision of access to the courts, *ante*, at 15–16. Because I joined the dissent in *Nevada Dept. of Human Resources v. Hibbs*, 538 U. S. 721 (2003), and continue to believe that *Hibbs* was wrongly decided, I write separately only to disavow any reliance on *Hibbs* in reaching this conclusion.