

## Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

**SUPREME COURT OF THE UNITED STATES**

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SUTTON ET AL. v. UNITED AIR LINES, INC.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE TENTH CIRCUIT

No. 97–1943. Argued April 28, 1999– Decided June 22, 1999

Petitioners, severely myopic twin sisters, have uncorrected visual acuity of 20/200 or worse, but with corrective measures, both function identically to individuals without similar impairments. They applied to respondent, a major commercial airline carrier, for employment as commercial airline pilots but were rejected because they did not meet respondent's minimum requirement of uncorrected visual acuity of 20/100 or better. Consequently, they filed suit under the Americans with Disabilities Act of 1990 (ADA), which prohibits covered employers from discriminating against individuals on the basis of their disabilities. Among other things, the ADA defines a "disability" as "a physical or mental impairment that substantially limits one or more . . . major life activities," 42 U. S. C. §12102(2)(A), or as "being regarded as having such an impairment," §12102(2)(C). The District Court dismissed petitioners' complaint for failure to state a claim upon which relief could be granted. The court held that petitioners were not actually disabled under subsection (A) of the disability definition because they could fully correct their visual impairments. The court also determined that petitioners were not "regarded" by respondent as disabled under subsection (C) of this definition. Petitioners had alleged only that respondent regarded them as unable to satisfy the requirements of a particular job, global airline pilot. These allegations were insufficient to state a claim that petitioners were regarded as substantially limited in the major life activity of working. Employing similar logic, the Tenth Circuit affirmed.

*Held:* Petitioners have not alleged that they are "disabled" within the ADA's meaning. Pp. 4–21.

(a) No agency has been delegated authority to interpret the term "disability" as it is used in the ADA. The EEOC has, nevertheless,

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issued regulations that, among other things, define “physical impairment” to mean “[a]ny physiological disorder . . . affecting . . . special sense organs,” “substantially limits” to mean “[u]nable to perform a major life activity that the average person in the general population can perform,” and “[m]ajor [l]ife [a]ctivities [to] mea[n] functions such as . . . working.” Because both parties accept these regulations as valid, and determining their validity is not necessary to decide this case, the Court has no occasion to consider what deference they are due, if any. The EEOC and the Justice Department have also issued interpretive guidelines providing that the determination whether an individual is substantially limited in a major life activity must be made on a case by case basis, without regard to mitigating measures such as assistive or prosthetic devices. Although the parties dispute the guidelines’ persuasive force, the Court has no need in this case to decide what deference is due. Pp. 4–7.

(b) Petitioners have not stated a §12102(2)(A) claim that they have an actual physical impairment that substantially limits them in one or more major life activities. Three separate ADA provisions, read in concert, lead to the conclusion that the determination whether an individual is disabled should be made with reference to measures, such as eyeglasses and contact lenses, that mitigate the individual’s impairment, and that the approach adopted by the agency guidelines is an impermissible interpretation of the ADA. First, because the phrase “substantially limits” appears in subsection (A) in the present indicative verb form, the language is properly read as requiring that a person be presently— not potentially or hypothetically— substantially limited in order to demonstrate a disability. A “disability” exists only where an impairment “substantially limits” a major life activity, not where it “might,” “could,” or “would” be substantially limiting if corrective measures were not taken. Second, because subsection (A) requires that disabilities be evaluated “with respect to an individual” and be determined based on whether an impairment substantially limits the individual’s “major life activities,” the question whether a person has a disability under the ADA is an individualized inquiry. See *Bragdon v. Abbott*, 524 U. S. 624, 641–642. The guidelines’ directive that persons be judged in their uncorrected or unmitigated state runs directly counter to this mandated individualized inquiry. The former would create a system in which persons would often be treated as members of a group having similar impairments, rather than as individuals. It could also lead to the anomalous result that courts and employers could not consider any negative side effects suffered by the individual resulting from the use of mitigating measures, even when those side effects are very severe. Finally, and critically, the Congressional finding that 43 million Americans have

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one or more physical or mental disabilities, see §12101(a)(1), requires the conclusion that Congress did not intend to bring under the ADA's protection all those whose uncorrected conditions amount to disabilities. That group would include more than 160 million people. Because petitioners allege that with corrective measures their vision is 20/20 or better, they are not actually disabled under subsection (A). Pp. 7–15.

(c) Petitioners have also failed to allege properly that they are “regarded as,” see §12101(2)(C), having an impairment that “substantially limits” a major life activity, see §12102(2)(A). Generally, these claims arise when an employer *mistakenly* believes that an individual has a substantially limiting impairment. To support their claims, petitioners allege that respondent has an impermissible vision requirement that is based on myth and stereotype and that respondent mistakenly believes that, due to their poor vision, petitioners are unable to work as “global airline pilots” and are thus substantially limited in the major life activity of working. Creating physical criteria for a job, without more, does not violate the ADA. The ADA allows employers to prefer some physical attributes over others, so long as those attributes do not rise to the level of substantially limiting impairments. An employer is free to decide that physical characteristics or medical conditions that are not impairments are preferable to others, just as it is free to decide that some limiting, but not substantially limiting, impairments make individuals less than ideally suited for a job. In addition, petitioners have not sufficiently alleged that they are regarded as substantially limited in the major life activity of working. When the major life activity under consideration is that of working, the ADA requires, at least, that one's ability to work be significantly reduced. The EEOC regulations similarly define “substantially limits” to mean significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills and abilities. The Court assumes without deciding that work is a major life activity and that this regulation is reasonable. It observes, however, that defining “major life activities” to include work has the potential to make the ADA circular. Assuming work is a major life activity, the Court finds that petitioners' allegations are insufficient because the position of global airline pilot is a single job. Indeed, a number of other positions utilizing petitioners' skills, such as regional pilot and pilot instructor, are available to them. The Court also rejects petitioners' argument that they would be substantially limited in their ability to work if it is assumed that a substantial number of airlines have vision requirements similar to respondent's. This argument is flawed because it is not enough to say that if the otherwise

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permissible physical criteria or preferences of a single employer were *imputed* to all similar employers one would be regarded as substantially limited in the major life activity of working *only as a result of this imputation*. Rather, an employer's physical criteria are permissible so long as they do not cause the employer to make an employment decision based on an impairment, real or imagined, that it regards as *substantially limiting* a major life activity. Petitioners have not alleged, and cannot demonstrate, that respondent's vision requirement reflects a belief that their vision substantially limits them. Pp. 15–21.

130 F. 3d 893, affirmed.

O'CONNOR, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and SCALIA, KENNEDY, SOUTER, THOMAS, and GINSBURG, JJ., joined. GINSBURG, J., filed a concurring opinion. STEVENS, J., filed a dissenting opinion, in which BREYER, J., joined. BREYER, J., filed a dissenting opinion.