

Justices Try to Determine The Meaning of Disability

By LINDA GREENHOUSE

WASHINGTON, Nov. 7 — The Americans With Disabilities Act defines disability as an impairment that "substantially limits" someone from engaging in one or more "major life activities," phrases that the courts have struggled to understand and apply since the law took effect 11 years ago.

A Supreme Court argument today placed those essential but vague terms under a microscope as the justices heard an appeal that raised such questions as: How serious does a limitation have to be in order to be "substantial?" Is "working" a "major life activity?" Are some conditions so obviously disabling that no proof is needed beyond diagnosis?

While the answers were not clear by the end of the argument, the justices' determination to come to grips with a statute that many consider the most important civil rights law of the last 25 years was nonetheless evident. The appeal by Toyota Motor Manufacturing Inc. from a ruling that it failed to meet its legal duty to accommodate the needs of an assembly line worker with carpal tunnel syndrome was the first of three disability act cases the court will hear over the next few months.

The United States Court of Appeals for the Sixth Circuit ruled last year that Ella Williams, who spent six years on Toyota's assembly line in Georgetown, Ky., was substantially limited in the major life activity of "performing manual tasks" because of her muscle, tendon and ligament problems. The appeals court, which sits in Cincinnati, said Ms. Williams was entitled to a "reasonable accommodation" from Toyota in the form of a job assignment that would not require her to grip tools or to keep

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her arms extended or raised, as she had to do while wiping and sponging cars as they moved down the assembly line at the rate of one a minute.

But while Ms. Williams, 42, could not perform those motions repetitively, she was still able to attend to her personal hygiene, to do household chores and to work in her garden. Toyota is arguing that she is not disabled within the meaning of the law and that the appeals court misapplied the concept of a substantial limitation by considering only her problems in the workplace.

"No one suggests that she can't use a sponge," John G. Roberts Jr., Toyota's lawyer, said. The only problem came when she had to use a sponge repetitively, Mr. Roberts said, "and the only place you do that is on the job."

Justice Sandra Day O'Connor asked, "In looking at 'substantial limitation,' do we look at things a person cannot do, or things they can do, or both?"

Both, replied Mr. Roberts, whom the Bush administration has nominated to a seat on the federal appeals court here. He said the law required an examination of "the broad range of everyday tasks we all perform, not just work-related activities."

Justice Stephen G. Breyer was not satisfied. "Does this statute intend the court to be so rigid?" Justice Breyer asked. "Isn't the issue just whether this person is hurt badly enough that there are an awful lot of things she can't do that people do in life?"

Mr. Roberts said that if Ms. Williams had a "substantial limitation," it was in the major life activity of "working." But the Supreme Court has been skeptical of whether "working" is an appropriate category under the act. The Sixth Circuit sidestepped the question in this case, *Toyota Motor Manufacturing v. Williams*, No. 00-1089, and Mr. Roberts said that if the Justices decided to address it, they should find that "working" was not what Congress meant by "major life activity." It was a circular argument, he said, to maintain that someone could not work because they were substantially limited in their ability to work.

Justice Breyer agreed. An inability to perform a category of jobs should be evidence of disability, he suggested, rather than a category that proves disability by itself.

The Bush administration entered the case on behalf of Toyota. Barbara B. McDowell, an assistant solicitor general, said the government had

no position on whether Ms. Williams was disabled, but that the Sixth Circuit had reached that conclusion through too narrow a focus on one category of assembly line job.

Arguing for Ms. Williams, Robert L. Rosenbaum urged the justices to take a broad view of his client's problems. Providing a capsule medical history, Rosenbaum said, "I can tell you this is not simply a sore wrist case." But he said that whether someone was disabled had to be an individual determination. "You can't have a *per se* finding of disability based on the nomenclature of a medical condition," he said.

Mr. Rosenbaum said the Supreme Court should clarify the standards for defining disability and then either rule for Ms. Williams or instruct the lower courts to apply the standard. The fact that an employee is able to function outside the workplace should not be a defense to a disability discrimination complaint, he said, adding, "The A.D.A. is about working, the ability to have a job, a basic American value."