



High Court Says Girl With Special Needs Can Sue Over School's Refusal to Allow Service Dog

The family of a girl with cerebral palsy may sue her former school district for refusing to allow her service dog as a companion in school, the U.S. Supreme Court has ruled.

The Michigan case revolved around whether the family of Ehlena Fry could seek damages under the Americans with Disabilities Act (ADA) without first going through the process under another law, the Individuals with Disabilities Education Act (IDEA). Lower courts had ruled that the family first had to go through IDEA's appeals process, but the U.S. Supreme Court saw things differently.

The justices ruled that the family did not have to seek a solution under IDEA because the focus of their case was not Ehlena's education.

The unwitting star of the case was Wonder, a goldendoodle (a cross between a golden retriever and a poodle), whose company the Frys wanted Ehlena to have in kindergarten, something the Napoleon Community Schools would not allow. The Frys thought that Wonder, as opposed to a human aide, could better help Ehlena perform certain tasks, such as visiting the bathroom. The goal was to give Ehlena greater physical and emotional independence.

Because the family's concern was not about Ehlena's educational program, they sued under the ADA, which prohibits discrimination against individuals with disabilities in all areas of life, including work, school, transportation, and public places. The school district argued that the family had to exhaust its remedies under IDEA before turning to the ADA.

Delivering the Court's 8-0 opinion, Justice Elena Kagan wrote: "Nothing in the nature of the Frys' suit suggests any implicit focus on the adequacy of [Ehlena's] education." Two of the justices, Chief Justice John Roberts and Justice Stephen Breyer, expressed concerns that the decision could cause more families of children with disabilities to threaten ADA lawsuits, but they nevertheless voted in the Frys' favor.

Although the justices said the Frys did not necessarily need to go through the IDEA process, they indicated that if the family started the process, the court could still require them to complete it before bringing a lawsuit under the ADA. The Court returned the case to the Court of Appeals for the Sixth Circuit to determine whether the family had already "started down that road," as Justice Kagan put it.

Ehlena, now 13, attends a different elementary school that accepted Wonder, who is now 10 years old and retired.

The Supreme Court heard another case this spring involving how schools handle children with disabilities. The family of a Colorado student with autism is suing under the IDEA law to give their child a more substantial education.

For more information about special needs planning in general and special needs trusts in particular, contact Attorney John D'Onofrio today.

As a member of the Academy of Special Needs Planning, John is constantly reviewing new laws and amendments in this area of law as well as attending seminars and continuing education classes relevant to special needs planning and trusts.

Call today to schedule a free initial consultation. Call today, get peace of mind today.

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