

Texas Supreme Court rules on disability

The Texas Supreme Court has reversed a lower court's decision that urinary incontinence is not a disability under the state's disability discrimination laws. The decision reinstates a jury's verdict that a school district owes back pay and over \$125,000 in compensatory damages to an employee terminated for urinating on himself at work.

Recent case: Paul worked as a bus monitor for the Dallas County Schools, helping disabled students on and off the bus. He has been diagnosed with congestive heart failure, which the school district conceded was a disability under the Texas Labor Code.

Several medicines Paul took caused him to have to urinate frequently. Usually, the driver on Paul's bus would make unscheduled stops so he could use public bathrooms to relieve himself.

However, on a trip with a different driver, the driver refused to stop and Paul wet his pants. Paul covered himself and used an empty bottle to finish urinating. Then Paul helped a student in a wheelchair get on the bus.

The substitute driver complained about Paul's urination to their supervisor. The school district fired Paul, in part because he allegedly exposed the student to bodily fluids because his pants were wet and for unprofessional conduct in urinating into the bottle.

Paul sued, alleging disability discrimination. A jury awarded back pay plus \$125,000 in damages. The district appealed and the appellate court concluded urinary incontinence was not a disability. Paul appealed to the Texas Supreme Court.

The Texas Supreme Court sided with Paul, concluding that urinary incontinence qualified as a disability because the urgent need to urinate substantially impaired the major life function of working. (*Green v. Dallas County Schools*, Supreme Court of Texas, 2017)