

07-480 HUBER V. WAL-MART STORES

DECISION BELOW:486 F3d 480

LOWER COURT CASE NUMBER: 06-2238

QUESTIONS PRESENTED:

Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12111 et seq. (ADA), requires employers to “mak[e] reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability.” 42 U.S.C. § 12112(b)(5)(A). The statute expressly lists “reassignment to a vacant position” as a “reasonable accommodation.” Id. § 12111(9)(B). The Equal Employment Opportunity Commission (EEOC) has issued regulations implementing that definition, 29 C.F.R. § 1630.2(o)(2)(ii), and it has interpreted those regulations to provide that “[t]he employee does not need to be the best qualified individual for the position in order to obtain it as a reassignment.” The questions presented are:

1. If a disability prevents an employee from performing the essential functions of his or her current position, does the ADA require:

(a) that the employer reassign the employee to a vacant, equivalent position for which he or she is qualified, as the Tenth and District of Columbia Circuits have held; or

(b) that the employer merely permit the employee to apply and compete with other applicants for the vacant, equivalent position for which he or she is qualified, as the Seventh and Eighth Circuits have held?

2. Is the EEOC’s interpretation of its regulation entitled to deference under *Long Island Care at Home, Ltd. v. Coke*, 127 S. Ct. 2339 (2007) — a case decided twelve days after the Eighth Circuit rendered its decision in this case?

CERT. GRANTED 12/7/2007

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION
JUSTICE BREYER TOOK NO PART
DISMISSED PURSUANT TO RULE 46