

No. 26-30184

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

CAROLYN P. SANDERS,
Plaintiff-Appellant,

v.

COMMUNITY ACADEMIES OF NEW ORLEANS,
Defendant-Appellee.

On Appeal from the United States District Court
for the Eastern District of Louisiana

No. 2:24-cv-1821

Hon. Karen Wells Roby, Magistrate Judge

BRIEF OF THE EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION AS AMICUS CURIAE IN SUPPORT OF
APPELLANT AND IN FAVOR OF REVERSAL

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The undersigned counsel of record certifies that, in addition to the persons and entities listed in the briefs of the Appellant and Appellee, the following listed persons and entities as described in the fourth sentence of 5th Cir. Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

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STATEMENT OF INTEREST

Congress charged the Equal Employment Opportunity Commission (“EEOC”) with interpreting the definition of “disability” under the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12205a, and with administering and enforcing Title I of the ADA, 42 U.S.C. §§ 12116, 12117. In 2008, Congress amended the ADA to expand the scope of its protections. ADA Amendments Act of 2008 (“ADAAA”), Pub. L. No. 110-325, 122 Stat. 3553 (2008). However, the district court in this case relied on pre-ADAAA law in analyzing whether the plaintiff had a covered disability. Because the EEOC has a substantial interest in the proper interpretation of the ADA, it files this brief pursuant to Federal Rule of Appellate Procedure 29(a).

STATEMENT OF THE ISSUES¹

1. Did the district court incorrectly analyze whether Carolyn Sanders had a disability under the ADA because it relied on case law and EEOC regulations that pre-dated the ADAAA?

¹ The EEOC takes no position on any other issue in the case.

2. Could a reasonable jury find that Carolyn Sanders had a disability under the ADA as amended?

3. Does the ADA's definition of "disability" require a medical diagnosis?

STATEMENT OF THE CASE

A. Statement of the Facts²

Defendant Community Academies of New Orleans ("CANO") operated Lafayette Academy, a charter school, during the academic year of 2021-22.³ The school, which has since closed, taught children in grades pre-K through 4 on its lower campus, and children in grades 5 through 8 on its upper campus. R.24-12 at 1-2. Plaintiff Carolyn Sanders was an ELA (English Language Arts) interventionist on the upper campus, helping students who were struggling with reading and writing. R.24-12 at 1; R.24-11 at 1. She was also a testing coordinator. R.24-12 at 1. According to

² The EEOC recites these facts in the light most favorable to Sanders, the non-movant, consistent with the standard of review for an award of summary judgment. *See Baker v. Coborn*, 170 F.4th 988, 992 (5th Cir. 2026).

³ Because the EEOC does not have access to the Record on Appeal, record citations take the following form: R.[docket number] at [ECF page number].

her job description, Sanders had to “remain in a stationary position for 75% of the workday,” be “able to occasionally move about inside the office and school building to meetings and other assigned duties,” and “occasionally ascend stairs to migrate throughout the workspace.” R.24-11 at 2.

On March 5, 2023, Sanders emailed Director of Human Resources Lori Knight, “I need to take some FMLA time to take care of some medical issues with vision and joint pain.” R.24-5 at 1. She explained that she was going to have surgery on her left eye on March 13 and on her right eye six to ten weeks later. R.24-5 at 1. She added that she was in the process of applying for short-term disability pay “after discussing the joint pain with my primary care physician.” R.24-5 at 1. Knight replied on March 7, “due to your disclosure of having a medical condition, we will approve you to be out [until May 19, 2023], however we must receive verification per the attached FMLA form....” R.24-6 at 1.

Sanders also applied to Mutual of Omaha for short-term disability leave. R.32-1 at 9. Dr. Edward Gaber, Sanders’s primary care doctor, filled out the medical portion of the application. R.32-1 at 6. He noted that Sanders had low back pain, radiating shooting pain in both legs, hip pain, stiffness, and weakness from standing. R.32-1 at 6. Because Sanders was

“unable to stand [for] long periods of time,” he said, she was “unable to student monitor or teach during instructional period[s].” R.32-1 at 7.

Additionally, he stated, Sanders was “unable” to “perform at a constant pace,” and was “markedly limited” in her ability to “perform repetitive, or short cycle work” and “perform a variety of duties.” R.32-1 at 7. Dr. Gaber reported that Sanders was scheduled for an MRI and said that he could not offer a prognosis or treatment plan until further evaluation. R.32-1 at 6-7.

Sanders underwent the MRI in mid-March. R.32-1 at 11. Dr. Gaber sent Mutual of Omaha an updated form diagnosing “low back pain” with secondary conditions of sciatica, bilateral hip pain, and weakness. R.32-1 at 11. He stated that he had prescribed pain medication (gabapentin) and advised Sanders not to work. R.32-1 at 11. He also said that he had referred Sanders to Dr. Thomas Francavilla, a neurosurgeon. R.32-1 at 11.

Dr. Francavilla’s first available appointment was in mid-April. R.26-1 at 27. He reviewed x-rays, told Sanders that he was concerned about her L4-L5 spinal vertebrae, and diagnosed “lumbar radiculopathy.” R.32-1 at 12. He instructed her to undergo six weeks of physical therapy and return for a follow-up appointment on May 31. R.32-1 at 12-13.

In mid-May, Knight emailed Sanders that CANO needed her treating physician to provide a medical release and anticipated return-to-work date. R.24-7 at 1. “[Y]our (unpaid) FMLA leave entitlement ends on 5/19/23,” Knight said, “and you are expected to return to work on 5/22/23. With regard to your return, please include any potential restrictions or accommodations i.e., light duty or physical therapy appointments (noted on the medical release) that we may need to consider as an accommodation based on the essential duties as an interventionist.” R.24-7 at 1.

Dr. Gaber wrote that it would be best for any medical release to come from Dr. Francavilla, but said he was “aware that her anticipated return date will be in the fall of 2023.” R.24-8 at 1. Dr. Francavilla declined to write a release and asked CANO to excuse Sanders from work “until further notice, as she completes her physical therapy and is further evaluated for possible further testing.” R.24-9 at 1. He explained, “Mrs. Sanders is unable to bend, stoop, walk, and lift without being in extreme pain.” R.24-9 at 1.

Dr. Francavilla promised to send CANO an updated statement after Sanders returned to his clinic on May 31, R.24-9 at 1, which he did on June 2, R.24-12 at 3. The updated statement reported that, based on diagnostic x-rays, Sanders had lumbar radiculopathy causing her to experience low

back pain, numbness, and leg pain, although she had “no overt instability.” R.24-10 at 1. He said that for the next three months, Sanders should not stand or walk for more than thirty minutes, and that she should then sit for fifteen minutes to recover. R.24-10 at 2. Dr. Francavilla noted that Sanders had “decline[d] pain management & injection therapy,” and wrote that she should follow up with him only “as needed.” R.24-10 at 1. “Patient will hopefully show improvement after 3 months of resting/no strenuous activity,” he said. R.24-10 at 2. Dr. Francavilla predicted that Sanders would return to her prior level of functioning by August 31. R.24-10 at 3.

On June 26, CANO told Sanders that it was terminating her employment. R.24-12 at 10. “Under the FMLA regulations,” CANO said, “you have exhausted your leave entitlement and no longer have job protection under the law. Additionally, all other leave options as required by state and federal law have also been exhausted and therefore, we regretfully inform you that your employment status will no longer be active as of July 1, 2023.” R.24-12 at 10.

Notwithstanding its explanation in the termination letter, CANO subsequently asserted that it had actually fired Sanders as part of a reduction in force. R.24-12 at 2-3. Due to declining enrollment, CANO said,

it had decided to merge the lower and upper campuses into one building, thereby reducing the need for interventionists and testing coordinators.

R.24-12 at 2. The individuals it retained, CANO said, were more experienced and/or had more tenure than Sanders. R.24-12 at 2. CANO asserted that Sanders was not qualified for any open position. R.24-12 at 2-3.

Sanders filed a pro se complaint in district court alleging that CANO had violated the ADA by not providing a reasonable accommodation, and by firing her based on her disability. R.1 at 3-4. CANO moved for summary judgment, arguing that Sanders “cannot establish that she was a qualified individual with a disability and/or regarded by CANO as having any purported disability.” R.24-3 at 7.

B. District Court’s Decision

The district court held that Sanders did not satisfy the ADA’s definition of “disability” and granted summary judgment to CANO. R.36 at 11. The court’s analysis did not consider the ADAAA, which Congress enacted in 2008; instead, the court relied on pre-ADAAA case law and now-superseded versions of EEOC regulations.

The court first quoted the ADA's definition of "disability" as: "(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment." R.36 at 7 (quoting 42 U.S.C. § 12102(2) (2007)).⁴ Seeking to determine whether Sanders satisfied the first prong of this definition, the court considered whether she was "substantially limited in a major life activity." R.36 at 7-8.

To answer this question, the court turned to two pre-ADAAA EEOC regulations, both of which are now obsolete.⁵ R.36 at 7. The first defined

⁴ The court stated that it was quoting § 12102(1), but the quoted language is actually from § 12102(2) of the pre-ADAAA statute. The ADAAA moved this definition to section 12102(1) and made changes to the text, none of which are relevant here.

⁵ The district court did not state which version of the regulations it relied upon. To assist the court, this brief cites annual versions of the Code of Federal Regulations from 2007 (which did not account for the yet-to-be enacted ADAAA) and from 2011 (the first annual volume to include the EEOC's revised regulations).

On page 7, the district court cited to the abrogated version of the definition of "substantially limits," 29 C.F.R. § 1630.2(j)(1) (2007), but then also to the current version of the definition of "physical or mental impairment," § 1630.2(h)(1) (2011). On pages 7-8, the district court cited to the abrogated version of the factors for determining whether an impairment is substantially limiting, also using a subsection that did not exist at the time ("§ 1630.2(j)(4)[sic]"). Then, on page 8, the district court cited the current version of the regulation discussing impairments that are

“substantially limits” narrowly as meaning either “[u]nable to perform a major life activity” or “[s]ignificantly restricted” in the individual’s ability to perform such an activity. R.36 at 7 (quoting 29 C.F.R. § 1630.2(j)(1) (2007)). The second said that in determining whether an individual’s impairment substantially limits a major life activity, courts must consider the impairment’s nature and severity, duration or expected duration, and actual or expected permanent or long-term impact. R.36 at 7-8 (quoting 29 C.F.R. § 1630.2(j)(2) (2007) (subsection corrected)).

The court acknowledged that Dr. Francavilla told CANO in mid-May that “Sanders was unable to bend, stoop, walk, and lift without extreme pain.” R.36 at 9. It also recognized that “the relevant time for assessing the existence of a disability is the time of the adverse employment action.” R.36 at 8. However, it did not consider the relevance of Dr. Francavilla’s information to the question of whether Sanders had a disability at the time of her termination. *See* R.36 at 9. It noted only that, based on her job

episodic or in remission, § 1630.2(j)(1)(vii) (2011). And, on page 10, the district court cited to the abrogated version of the definition of the regulation about the “nature and severity” of an impairment, § 1630.2(j)(2)(i) (2007) (the current regulation has no subsections under (j)(2)).

description, “[n]owhere ... is there a suggestion that Sanders would be engaged in prolong[ed] standing and walking per the limitations or restrictions set by Dr. Francavilla.” R.36 at 11.

Focusing more on what CANO knew about Sanders’s condition than on the symptoms that she experienced, the court emphasized that, at the outset of her leave, Sanders told CANO only that she needed to take care of some issues with vision and joint pain. R.36 at 5. Additionally, the court said, “the record evidence did not clearly identify a diagnosis that restricted Sanders from engaging in a major life activity.”⁶ R.36 at 9. Finally, the court said that Sanders’s limitations were only temporary — “the opposite of permanent issues that are the ‘touchstone of a substantially limiting impairment.’” R.36 at 9 (quoting *Waldrip v. Gen. Elec. Co.*, 325 F.3d 652, 654 (5th Cir. 2003)). Thus, the court held, Sanders did not have a disability within the meaning of the ADA. R.36 at 11. The court did not consider whether Sanders’s limitations could amount to a disability under current law. *See* R.36 at 7-11.

⁶ The court (erroneously) stated that Sanders was not actually diagnosed with lumbar radiculopathy until after her leave had expired on May 19. R.36 at 9, 10. In fact, Dr. Francavilla’s order for physical therapy, dated April 19, stated that Sanders had “lumbar radiculopathy.” R.32-1 at 13.

ARGUMENT

The district court erred in holding as a matter of law that Sanders could not establish the existence of a disability – the sole basis for its ruling against her. The court relied almost entirely on now-superseded pre-ADAAA regulations and case law. By focusing on what CANO knew rather than on Sanders’s condition at the time of her termination, the district court erroneously conflated the question of whether Sanders had a disability with the question of whether she sufficiently informed CANO thereof. The district court also wrongly emphasized that Sanders did not have a diagnosis until after her termination. The EEOC urges this Court to vacate the grant of summary judgment and remand for further proceedings.

I. The ADAAA expanded the definition of “disability.”

Congress originally enacted the ADA in 1990 “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” Pub. L. No. 101-336, § 2(b)(1), 104 Stat. 327 (1990). The ADA defined “disability” to include “a physical or mental impairment that substantially limits one or more of the major life activities of such individual.” *Id.* § 3(2)(A); 42 U.S.C. § 12102(2)(A) (2007).

Courts initially interpreted the statute narrowly, reasoning that the terms “substantially limits” and “major life activity” must “be interpreted strictly to create a demanding standard for qualifying as disabled.” *Toyota Motor Mfg., Ky., Inc. v. Williams*, 534 U.S. 184, 197 (2002). EEOC regulations likewise provided that “substantially limit[ed]” meant “(i) [u]nable to perform a major life activity that the average person in the general population can perform; or (ii) [s]ignificantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform the same major life activity.” 29 C.F.R. § 1630.2(j)(1) (2007). EEOC regulations also instructed that courts must consider “[t]he permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment.” 29 C.F.R. § 1630.2(j)(2)(iii) (2007).

Congress rejected those interpretations in 2008, expressly stating that it had always intended for the ADA to provide “a broad scope of protection.” Pub. L. No. 110-325, § 2(b)(1), 122 Stat. 3553 (2008), *reprinted at* 42 U.S.C.A. § 12101 note; *see also id.* § 2(a)(8), *reprinted at* 42 U.S.C.A. § 12101 note (EEOC’s definition of “substantially limits” was “inconsistent with

congressional intent, by expressing too high a standard”). The amended statute and its implementing regulations now emphasize that the term “substantially limits” must be construed broadly. *See* 42 U.S.C.

§ 12102(4)(A) (“The definition of disability in this chapter shall be construed in favor of broad coverage ... to the maximum extent permitted by the terms of this chapter.”); *id.* § 12102(4)(B) (“The term ‘substantially limits’ shall be interpreted consistently with the findings and purposes of the [ADAAA].”); 29 C.F.R. § 1630.2(j)(1)(i) (2011) (“‘Substantially limits’ is not meant to be a demanding standard.”).

Accordingly, as Congress intended, it is generally now a straightforward matter for an individual to establish that she has a disability. In *Neely v. PSEG Texas, Limited Partnership*, 735 F.3d 242 (5th Cir. 2013), this Court explained, “In crafting the ADAAA, Congress intended ‘that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations and the question of whether an individual’s impairment is a disability under the ADA should not demand extensive analysis.” *Id.* at 245 (citation modified) (quoting Pub. L. No. 110-325, § 2(b)(5), 122 Stat. 3553, *reprinted at* 42 U.S.C.A. § 12101 note). And in *Mueck v. La Grange*

Acquisitions, L.P., 75 F.4th 469 (5th Cir. 2023), this Court said, “Congress directed that courts, in assessing whether an impairment substantially limits a major life activity, interpret and apply the term ‘substantially limits’ to require a degree of functional limitation that is lower than the standard applied prior to the ADAAA.” *Id.* at 479 (citation modified).

Consistent with the statutory instruction to revise its regulations, Pub. L. No. 110-325, § 2(b)(6), 122 Stat. 3553, *reprinted at* 42 U.S.C.A. § 12101 note, the EEOC promulgated new regulations intended to make it easier for an individual to prove the existence of a disability.⁷ The new regulations provide that “[a]n impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting.” 29 C.F.R. § 1630.2(j)(1)(ii) (2011). Rather, they say, “[a]n impairment is a disability ... if it

⁷ These regulations are entitled to deference because Congress expressly gave the EEOC the authority to define “disability” under the ADA. *See* 42 U.S.C. § 12205a (granting EEOC “the authority to issue regulations implementing the definitions of disability in [42 U.S.C. § 12102] (including rules of construction) ... consistent with the [ADAAA]”); *Sutherland v. Peterson’s Oil Serv., Inc.*, 126 F.4th 728, 738 n.5 (1st Cir. 2025) (holding that EEOC definition of “disability” is entitled to deference because “[t]his is a quintessential example of Congress ‘expressly delegat[ing] to an agency the authority to give meaning to a particular statutory term’” (alteration in original) (quoting *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024))).

substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population.” *Id.*

Likewise, an impairment no longer must cause permanent or long-term limitations in order to qualify as a disability. “The effects of an impairment lasting or expected to last fewer than six months can be substantially limiting within the meaning of this section,” the regulations say. 29 C.F.R. § 1630.2(j)(1)(ix) (2011). Relevant considerations include, “as compared to most people in the general population, the condition under which the individual performs the major life activity; the manner in which the individual performs the major life activity; and/or the duration of time it takes the individual to perform the major life activity, or for which the individual can perform the major life activity.” 29 C.F.R. § 1630.2(j)(4)(i) (2011).

II. A reasonable jury could find that Carolyn Sanders had a disability under the ADA as amended.

The district court overlooked the ADAAA when holding that Sanders could not establish the existence of a disability. Dr. Francavilla stated in mid-May that Sanders was “unable to bend, stoop, walk, and lift without being in extreme pain,” R.24-9 at 1, and observed in his June 2 report that

Sanders experienced significant low back pain, numbness, and leg pain while walking or standing, R.24-10 at 1. The district court relied on pre-ADAAA precedent to state that “mere difficulty in standing or walking is not sufficient to establish a substantial limitation.” R.36 at 10 (collecting cases decided between 1996 and 1999).

However, the court failed to analyze Sanders’s limitations as required under existing law. In concluding that Sanders was not “substantially limited” in walking, the court did not compare the conditions under which she walked, the manner in which she walked, and/or the duration of time for which she was able to walk to that of most people in the general population – all important factors under current law. *See* 29 C.F.R. § 1630.2(j)(4)(i) (2011). A reasonable jury could find that Sanders’s pain while walking did, indeed, constitute a substantial limitation.

The district court also relied entirely on superseded law to determine that Sanders’s impairments were not long-lasting enough to constitute a disability. R.36 at 7. Quoting a pre-ADAAA case, the court said that “[t]emporary, occasional and sporadic pain are the opposite of permanent issues that are the ‘touchstone of a substantially limiting impairment.’” R.36 at 9 (quoting *Waldrip v. Gen. Elec. Co.*, 325 F.3d 652, 654 (5th Cir. 2003)).

Because Dr. Francavilla predicted that Sanders could return to work by August 31, the court stated, “Plaintiff simply has not presented sufficient evidence that the substantial impairment of her ability to stand or walk was anything other than temporary.” R.36 at 11 (citing exclusively to pre-ADAAA cases).

But post-ADAAA, she need not prove more. Although the Supreme Court initially interpreted the ADA to require covered impairments to be “permanent or long term,” see *Toyota Motor Mfg., Ky., Inc.*, 534 U.S. at 198, the ADAAA “defenestrated this requirement,” *Mancini v. City of Providence*, 909 F.3d 32, 40 (1st Cir. 2018). Instead, “a cognizable impairment may last fewer than six months as long as it is ‘sufficiently severe.’” *Id.* (citing 29 C.F.R. § 1630.2(j)(1)(ix) (2011) and quoting EEOC Interpretive Guidance on Title I of the Americans with Disabilities Act, 29 C.F.R. pt. 1630, app. § 1630.2(j)(1)(ix) (2011)) (citation modified).

Accordingly, multiple circuits — including this Court — have recognized that temporary conditions may qualify as disabilities after the ADAAA. See, e.g., *Mueck*, 75 F.4th at 481; *Shields v. Credit One Bank, N.A.*, 32 F.4th 1218, 1225 (9th Cir. 2022); *Hamilton v. Westchester Cnty.*, 3 F.4th 86, 92-95 (2d Cir. 2021); *Summers v. Altarum Inst., Corp.*, 740 F.3d 325, 330-32

(4th Cir. 2014); *Gogos v. AMS Mech. Sys., Inc.*, 737 F.3d 1170, 1172-73 (7th Cir. 2013). The district court's reliance on pre-ADAAA standards was error.

III. The ADA's definition of "disability" does not require a medical diagnosis.

The district court emphasized that Sanders initially told CANO only about "issues with vision and joint pain," and asserted she did not receive a diagnosis of lumbar radiculopathy until after the expiration of her FMLA leave (albeit, before CANO terminated her). *See* R.36 at 9, 10. Factually, the court was wrong: Dr. Francavilla diagnosed Sanders with lumbar radiculopathy on April 19, when he referred her for physical therapy. R.32-1 at 13. Legally, what Sanders told CANO is relevant only to CANO's *knowledge* that Sanders might have a disability, not to the question of whether or not she actually did.

The ADA defines "disability" not in terms of diagnoses, but in terms of "impairment[s]." *See* 42 U.S.C. § 12102(1). EEOC regulations do the same. *See* 29 C.F.R. § 1630.2(g)(1) (2011). Some impairments—including back and leg pain—are so obvious that a diagnosis would be superfluous. *See Tesone v. Empire Mktg. Strategies*, 942 F.3d 979, 999 (10th Cir. 2019) (back pain does not require expert medical evidence because it is "most amenable

to comprehension by a lay jury” (citation omitted)). Other impairments may carry a diagnosis but nonetheless require more evidence to establish that they substantially limit a major life activity and thus qualify as a disability. *See Kulasa v. Wyndham Vacation Rentals N. Am., LLC*, No. 20-1402, 2021 WL 3832343, at *3 (10th Cir. Aug. 27, 2021) (holding that plaintiff “failed to adequately establish any limitations arose out of his ADHD”).

Thus, the pertinent question is not whether an individual has a diagnosis, but how the impairment affects them. *See Hrdlicka v. Gen. Motors, LLC*, 63 F.4th 555, 568 (6th Cir. 2023) (“[A] diagnosis is not necessary for an ADA claim to succeed.”); *Taylor v. Phoenixville Sch. Dist.*, 184 F.3d 296, 314 (3d Cir. 1999) (as long as an employer is aware that an individual has health problems which cause significant limitations, “it is not essential that [they know] the specific name of [the employee’s] condition” to trigger the interactive process”); *Grabowski v. QBE Americas, Inc.*, No. 15-12318, 2017 WL 1077667, at *5 (E.D. Mich. Mar. 22, 2017) (“The fact that a formal diagnosis had not yet been made due to the timing of the appointment with the neurologist is of little consequence, and at most, it would create a genuine issue of material fact.”). Holding otherwise would pose an impossible hurdle for individuals who are ill from an unknown cause—

contravening congressional intent to expand the ADA's reach. *See* 29 C.F.R. § 1630.2(j)(1)(iii) (2011) ("The primary object of attention in cases brought under the ADA should be whether covered entities have complied with their obligations and whether discrimination has occurred[.]").

The type of pain that Sanders and Francavilla described is of the sort that a jury can readily understand. *See Sutherland v. Peterson's Oil Serv., Inc.*, 126 F.4th 728, 739 (1st Cir. 2025) ("[S]ome conditions plainly fall within the universe of impairments that a lay jury can fathom without expert guidance, and one of those conditions is a knee injury.") (citation modified). Indeed, courts recognized as much even before enactment of the ADAAA. *EEOC v. Sears, Roebuck & Co.*, 417 F.3d 789, 802 (7th Cir. 2005) ("A reasonable jury could conclude, based on this evidence and its own life experience, that Keane's severe difficulty in walking the equivalent of one city block was a substantial limitation compared to the walking most people do daily."); *Marinelli v. City of Erie*, 216 F.3d 354, 361 (3d Cir. 2000) (arm and neck pain "are among those ailments that are the least technical in nature and are the most amenable to comprehension by a lay jury."). Accordingly, even without a diagnosis, a jury could find that Sanders was disabled within the meaning of the ADA.

CONCLUSION

For the foregoing reasons, the EEOC urges this Court to vacate the judgment of the district court and remand the case for further proceedings.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) & 32(a)(7)(B) and 5th Cir. R. 32.2 because it contains 4,321 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

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CERTIFICATE OF SERVICE

I certify that on this 6th day of July, 2026, I electronically filed the foregoing brief in PDF format with the Clerk of Court via the appellate CM/ECF system. I certify that all counsel of record, as well as the pro se Plaintiff/ Appellant, are registered CM/ECF users, and service will be accomplished via the appellate CM/ECF system.

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