

# THE ADA PROJECT

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## Case Spotlight: Definition of Disability

Case Name: [Cannon v. Jacobs Field Services North America](#)  
Citation: *Cannon v. Jacobs Field Servs. N. Am., Inc.*, 813 F.3d 586 (5th Cir. 2016).  
Date of Decision: Jan. 13, 2016  
Court: United States Court of Appeals, Fifth Circuit  
Judge(s): Hon. E. Jolly, Hon. Catharina Haynes, & Hon. Gregg Costa (author)  
Alleged Disability: Broken Rotator Cuff  
Prong(s) at Issue: Actual Disability; Regarded As

### Background:

In 2011, Jacob Fields Services North America (“JFS”), a Colorado mining site, offered Michael Cannon a position as a field engineer. *Cannon*, 813 F.3d at 588. While completing a pre-employment physical for JFS, Cannon informed the examining doctor that he had an unsuccessful surgery on his rotator cuff in 2010, and could no longer lift his right arm above shoulder level. *Id.* Cannon was cleared by JFS’s doctor as long as the company agreed to accommodations, including restricting Cannon from driving company vehicles; lifting, pushing, or pulling more than ten pounds; and preventing him from working with his hands above shoulder level. *Id.*

When provided with the proposed accommodations, JFS determined Cannon was incapable of meeting the job’s physical requirements, such as “driving, climbing, lifting, and walking” on rough terrain. *Id.* at 589. Instead of communicating this to Cannon, JFS inquired whether Cannon could climb a ladder. *Id.* Although Cannon provided the corresponding clearance from his doctor regarding his ability to climb a ladder, JFS rescinded Cannon’s employment offer “based on his inability to climb a ladder.” *Id.* JFS did not respond to Cannon’s attempts to demonstrate otherwise. *Id.*

Cannon filed a claim with the Equal Employment Opportunity Commission (“EEOC”) and, subsequently, a complaint with the U.S. District Court for the Southern District of Texas, alleging that JFS violated Title I of the Americans with Disabilities Act (“ADA”). *Id.* JFS argued that Cannon would not be able to perform basic duties of the job because lifting and driving were required tasks. *Id.* The lower court entered summary judgment for JFS, holding that the rotator cuff impairment did not qualify as a disability under the ADA, and even if it did, Cannon was not qualified to do the job. *Id.*

### Holding:

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Noting that the district court ignored the expansion of the definition of disability when Congress amended the ADA in 2008 (“ADAAA”), the Fifth Circuit Court of Appeals reversed the district court’s holding and remanded the case.

**Analysis Regarding “Actual Disability” (Prong 1):**

In analyzing whether Cannon’s impairment substantially limited his major life activities, the Circuit Court first noted that lifting and reaching are included in the list of major life activities under the ADA. 42 U.S.C. § 12102(2)(A). Relying on the undisputed evidence provided by both Cannon and his doctor, which indicated that Cannon was unable to lift his arm above his shoulder and had “considerable difficulty lifting, pushing, or pulling,” the Circuit Court found sufficient evidence to conclude that Cannon’s impairment qualified as a disability. *Cannon*, 813 F.3d at 591-92.

**Analysis Regarding “Regarded As” (Prong 3):**

The Circuit Court also concluded that Cannon was “regarded as” having a disability *Id.* at 591. According to the Circuit Court, the ADA originally required a plaintiff to show that an employer perceived the plaintiff as having an impairment that “substantially limited one or more major life activities.” However, the ADAAA broadened the scope of the “regarded as” prong, such that a plaintiff bringing a “regarded as” claim only needs to establish that the employer perceived the plaintiff as having an impairment, regardless of whether that impairment limited or was perceived to limit a major life activity. 42 U.S.C.A. § 12102(3)(A).

The Circuit Court found that Cannon ably demonstrated that his job offer was revoked due to JFS’s perception of his physical impairment. *Cannon*, 813 F.3d at 594. Internal company emails stated that JFS thought that Cannon would not be able to perform the necessary job duties based on his physical impairment, as reported in the pre-employment physical exam. *Id.* at 591.