

# The ADA Project

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LEGISLATION CLINIC

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## Case Spotlight: Definition of Disability

Case Name: [Yinger v. Postal Presort, Inc.](#)  
Citation: *Yinger v. Postal Presort, Inc.*, 693 Fed. Appx. 768 (10th Cir. 2017) (unpublished).  
Date of Decision: June 8, 2017  
Court: United States Court of Appeals, Tenth Circuit  
Judge(s): Hon. Timothy Tymkovich; Hon. Monroe McKay, & Hon. Carlos Lucero (author)  
Alleged Disability: Heart Condition  
Prong(s) at Issue: Actual Disability

### Background:

David Yinger (“Yinger”) worked for Postal Presort, Inc. (“PPI”) as a handyman, machine operator, and backup driver for six years, beginning in 2006. (dec. at 2). Yinger had a permanent heart condition that required him to use a pacemaker. *Id.* Despite the use of his pacemaker, he fulfilled his job duties without any apparent restrictions. *Id.* In 2012, Yinger underwent a procedure to replace his pacemaker, which left him with a temporary infection. *Id.* at 3. During this time, PPI terminated Yinger, claiming that the company was overstaffed and that he was welcome to reapply for open positions. *Id.* at 4. When PPI denied his request for the documents needed for him to apply for unemployment benefits, Yinger filed a suit against the company. *Id.* at 4-5. He asserted that PPI failed to accommodate him under the Americans with Disabilities Act (“ADA”), as amended by the ADA Amendments Act (“ADAAA”). *Id.* at 5.

The district court granted PPI summary judgment, holding that Yinger’s heart condition was not a disability under the ADA. *Id.* Yinger appealed, arguing that the district court erred in finding that he did not have an actual disability under the ADA. *Id.*

### Holding:

The Circuit Court reversed the district court’s decision to grant summary judgment. *Id.* at 16. The Circuit Court held that a jury could reasonably conclude that Yinger had an actual disability because he had a heart condition that substantially limited his ability to lift, stand and walk distances. *Id.* at 7.

### **Analysis regarding “Actual Disability” (Prong 1):**

To demonstrate an actual disability, Yinger had to prove that his heart condition was a physical or mental impairment that substantially limited one or more major life activities. 42 U.S.C. § 12102(1)(A). Yinger “presented uncontroverted evidence that he has a heart condition which requires him to have a pacemaker in order to live.” (dec. at 7). Yinger alleged that his heart condition interfered with his ability to lift, stand, and walk distances. Therefore, the Circuit Court found that a reasonable jury could conclude that Yinger had a physical impairment that substantially limited one or more major life activities. *Id.*, citing 29 C.F.R. § 1630.2(h)(1) (defining “physical impairment” as “[a]ny physiological disorder or condition...or anatomical loss affecting one or more body systems, such as...[the] cardiovascular [system]”).

The district court erred in determining that Yinger did not have a disability without considering the effect of his heart condition in the absence of his pacemaker. Courts must determine whether an impairment substantially limits a major life activity “without regard to the ameliorative effects of mitigating measures.” 42 U.S.C. § 12102(4)(E). Yinger’s ability to perform his job without an accommodation was not sufficient to determine whether he had an impairment that substantially limited a major life activity. (dec. at 8).

Moreover, the negative side effects of treatment for a permanent physical impairment can be used in determining a condition’s limiting effects. *Id.*, citing 42 U.S.C. § 12102(3)(B); 29 C.F.R. §§ 1630.2(j)(1)(ix), 1630.2(j)(4)(ii). Thus, because the infection was a side effect of treatment for Yinger’s permanent heart condition, it was relevant to the analysis of whether his heart condition indeed had limiting effects. (dec. at 8).

The Circuit Court correctly interpreted the definition of disability when it determined that Yinger had an actual disability. Without the use of his pacemaker, Yinger’s heart condition limited major life activities. The Circuit Court also correctly found that, although the infection was a temporary negative side effect of the procedure to replace his pacemaker, it was relevant in determining his heart condition’s limiting effects. *Id.*

Finally, because Yinger only raised a failure to accommodate claim, the Circuit Court did not analyze whether he was regarded as having an impairment under prong 3 of the definition of disability. Nonetheless, it is likely that Yinger would have met the “regarded as” requirement had a non-accommodation claim been alleged. He could establish that he was terminated solely because of his heart condition, without having to prove that the condition limited a major life activity. 42 U.S.C. § 12102(3)(A).