

ANTHONY ZEI

* IN THE

Petitioner,

* COURT OF APPEALS

v.

* OF MARYLAND

MARYLAND TRANSIT
ADMINISTRATION

* No. 62

Respondent.

* September Term, 2012

* * * * *

ORDER

The Court, having considered the motion for reconsideration and the answer filed thereto, in the above captioned case, it is this 16th day of August, 2013

ORDERED, by the Court of Appeals of Maryland, that page one, paragraph one of the opinion filed on May 20, 2013 shall be modified to read as follows:

In this case, we are asked to determine whether the Maryland Transit Administration (“MTA”) complied with the Americans with Disabilities Act (“ADA”) when it adopted and applied a federally-created safety regulation governing the physical qualifications of drivers of commercial motor vehicles. Specifically, the United States Department of Transportation (“DOT”) has determined that an individual is not qualified to drive a commercial motor vehicle if that individual currently suffers from certain cardiovascular diseases. The MTA followed the lead of the federal government and adopted the same standard for its bus operators. We are tasked with determining whether MTA violated the ADA by firing Anthony Zei, a bus operator who failed to meet this standard.

ORDERED that page twelve, paragraph three, sentence one shall be modified to read as follows:

Our examination of the development of the FMCSRs and the ADA, tells us that the qualification standard of drivers

suffering from cardiovascular disease is “job-related” and of “business necessity.”

ORDERED that page eighteen, sentence one shall be deleted.

ORDERED that page eighteen, third paragraph, sentences one through three shall be modified to read as follows:

That is precisely what happened in this case. Congress sought to ensure that the FMCSRs applied to intrastate transportation, as well as interstate, and thus, created this grant program which conditioned the receiving of federal money on the State explicitly adopting 49 C.F.R. parts 390–397—which includes the qualification standard of drivers suffering from cardiovascular disease. *See* 49 C.F.R. § 350.201(a). Maryland followed the wishes of Congress and adopted state laws incorporating the FMCSRs.

ORDERED that, excepting the aforesaid amendments, the Motion for Reconsideration is DENIED.

/s/ Mary Ellen Barbera
Chief Judge