

*Rutherford v. Zalas*, 2:14-cv-369 (N.D. Ind. 2015)

### **ALTERNATIVE FINAL ORDER**

In this case, Mr. Straw was attempting to force Indiana courts to protect the civil rights of a man and parent with depression. Mr. Rutherford has depression and he wanted the ADA, Title II, to be enforced on the state court in Marshall County, Indiana. His ex-wife was successful in ignoring his parenting time rights and after he was so upset for months at not being able to see his kids, Mr. Rutherford attempted suicide.

Then, after being saved from suicide, Rutherford asked Mr. Straw simply to enforce the ADA on the state court in the manner clearly legal and anticipated in the NCD report done just a few years before in 2012. This major federal report on disabled people's parenting time rights wholly and completely supported Mr. Straw's attempt to help Mr. Rutherford. <https://www.ncd.gov/publications/2012/Sep272012>

This Court ignored those rights and assumed that the Anti-Injunction Act prevents 42 U.S.C. § 12133 from applying to state courts. Straw was accused of a frivolous lawsuit, but this is *not true*. Other U.S. District Courts have come to a completely different conclusion on the

ADA and these limits. *Sinisgallo v. Town of Islip Housing Authority*, [865 F.Supp.2d 307](#) (E.D.N.Y. 2012).

The fact is that the ADA has been used against state courts to enforce rights using the ADA, Title II, with the full support of the U.S. Supreme Court since 2004. *Tennessee v. Lane*, [541 U.S. 509](#) (2004).

Mr. Rutherford had a right under Title II of the ADA to not have his parenting time stripped by a state court because he has a disability, even a severe one. 42 U.S.C. §§ 12132, 12133

We are not living in some distant past before the ADA existed. Straw's reliance on the ADA, Title II, and the NCD report explaining at length the rights Straw invoked for Rutherford cannot be labeled frivolous. With another district stating that **the Anti-Injunction Act does not apply to the ADA, Title II**, it is impossible to come to the conclusion that Straw's complaint for Rutherford or any of this other pleadings were frivolous. The attempts to attack Straw's other cases as Zalas did was worthy of a Rule 11 sanction. Those attacks were irrelevant at best and more likely, done to abuse and harass.

There was nothing frivolous done by Straw in this case. Defending a disabled man's ADA right to parenting time and forcing a state court to

comply is deadly serious and Straw's being attacked could have resulted in another suicide attempt by Rutherford. It was absolutely reckless for Mr. Zalas to attempt to defend himself with such behavior.

In attacking this case, the Indiana Supreme Court was both **defending the ADA violations of its lower court** and trying to find a way to justify its total ban on all disabled people being lawyers, including Mr. Straw as a *former employee* of the Indiana Supreme Court. <http://ban.andrewstraw.com> To use the word frivolous when it is more likely than not that the Indiana Supreme Court was **interfering behind the scenes** with its [vindictive ADA coordinator](#) was irresponsible of this district court, and an example of collusion with state civil rights violations.

The ADA, Title II, applies to state courts from the small claims to supreme court level and everything in between. There is no exception from the Anti-Injunction Act or *Younger* doctrine. Congress has been crystal clear and no federal judge has any authority to stand in between enforcement of the Act and violators of the Act.

Finally, this matter was settled out of court and neither sanctions nor costs were assigned against Mr. Straw. The contract was negotiated

privately, recognized that Mr. Straw did not agree to liability and the matter was disputed. Under these circumstances, no final ORDER in dismissing this case used the word frivolous and neither sanctions nor costs were assigned to Mr. Straw. To impose discipline based on this case is also to interfere with the right to contract found in both the Indiana Bill of Rights, Section 24, and the U.S. Constitution, Art. I, Section 10, cl. 1.