

# PUBLICATION

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## Rarely Performed Duties May Still Be Essential

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Even a rarely performed job function may still be "essential" under the Americans with Disabilities Act (ADA), the U.S. Court of Appeals for the Sixth Circuit recently ruled in *Wardia v. Department of Juvenile Justice*. In that case, the Court of Appeals affirmed summary judgment for the employer, a correctional facility, which successfully argued that the task of placing an inmate in physical restraints, even though infrequently performed, was an "essential job requirement" under the ADA.

The plaintiff, John Wardia, was employed as a Youth Worker at the Campbell County Regional Juvenile Detention Center, where his main function was to supervise and monitor the activities of juveniles. Youth Workers must also place inmates in physical restraints when necessary. During his employment, Wardia suffered a neck injury that prevented him from performing physical restraints duties. He initially asked for, and received, a temporary accommodation working in the Center's control room.

Wardia eventually underwent surgery for his neck injury, which was unsuccessful in allowing him to return to his former position. When Wardia's physician subsequently informed the Center that his disability was permanent, the Center placed Wardia on disability leave which would convert to a job termination after one year. Two weeks before the expiration of his leave, Wardia requested a permanent reassignment to the Center's control room to accommodate his disability. The Center declined Wardia's request, and he was deemed resigned from his job at the end of his leave. Wardia then sued the Center for failing to accommodate his disability in violation of the ADA. The district court granted summary judgment in favor of the Center, finding the ability to perform physical restraints was an essential job function and that the ADA did not require the Center to reassign Wardia to the control room on a permanent basis as an accommodation.

On appeal, Wardia argued that placing inmates in physical restraints was too rare a situation to constitute an essential job function. Indeed, he argued, in practice weaker employees were often relieved from performing this task by stronger co-workers. Accordingly, Wardia argued that the Center could have accommodated his disability by assigning a stronger co-worker to perform physical restraints whenever the need arose, or by reassigning him permanently to the control room.

In denying Wardia's argument, the Court first noted that while the need to place a juvenile in physical restraints was rare, the potential for physical confrontation existed daily in the facility. Second, the fact that physical restraints were rarely used did not render the function non-essential. This is especially true because the inability to properly restrain juveniles could have serious safety and liability consequences. Finally, the Court held that Wardia's proposed accommodation that others perform restraints for him was not reasonable. Likewise, reassignment to the control room was not reasonable because the ADA does not require employers to convert a temporary position into a permanent one.

This ruling is a welcome addition to employers' arsenal of summary judgment arguments, particularly given that the recent amendments to the ADA expanded the definition of "disabled" under the law. To learn more about how your company can fend off meritless accommodation demands while still honoring the ADA, please contact any of our more than 70 Labor & Employment attorneys located in [Birmingham, Alabama](#); [Atlanta, Georgia](#); [Baton Rouge, Mandeville and New Orleans, Louisiana](#); [Jackson, Mississippi](#); [Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee](#); and [Houston, Texas](#).

