



# Bragdon v. Abbott, 524 U.S. 624 (1998)

Topics Covered: Americans with Disabilities Act

## **Outcome: Neutral**

### **Issue**

The issue in this case was whether a Maine dentist was required to treat an HIV-positive patient under the Americans with Disabilities Act (ADA).

### **AMA Interest**

The AMA encourages vigorous enforcement of anti-discrimination laws, such as the ADA, with respect to people who are HIV-positive.

### **Case Summary**

Sidney Abbott, who had been infected with HIV for eight years but was largely asymptomatic, disclosed her infection on a patient registration form when she arrived at the office of Randon Bragdon, D.D.S. for a dental appointment. During the dental examination, Dr. Bragdon discovered that Ms. Abbott had a cavity and informed her of his policy against filling cavities of HIV-infected patients. Dr. Bragdon offered to perform the work at a hospital with no added fee for his services there, although Ms. Abbott would be responsible for the cost of using the hospital's facilities. Ms. Abbott declined this offer.

She then sued Dr. Bragdon under the ADA, alleging discrimination on the basis of her disability. The United States and the Maine Human Rights Commission intervened as plaintiffs. The federal trial court granted summary judgment in favor of the plaintiffs, holding that Ms. Abbott's HIV infection satisfied the ADA's definition of disability and that Dr. Bragdon had raised no genuine issue of material fact as to whether Ms. Abbott's HIV infection would have posed a direct threat to the health and safety of others during the course of a dental treatment. In that regard, the court relied on affidavits submitted by the Center for Disease Control and Prevention's (CDC) Director of the Division of Oral Health, which asserted that dentists could safely treat HIV-infected patients in dental offices when following precautions in the 1993 CDC Dentistry Guidelines.

Dr. Bragdon appealed and the Court of Appeals for the First Circuit affirmed, holding that HIV infections was a disability under the ADA and that Dr. Bragdon's treating Ms. Abbott in his office would not have posed a direct threat to the health and safety of others. Rather than relying on the affidavits as had the trial court, though, the First Circuit relied directly on the 1993 CDC Dentistry Guidelines, as well as the 1991 American Dental Association Policy on HIV.

Dr. Bragdon sought review by the United States Supreme Court, which affirmed the First Circuit's determination that Ms. Abbott's HIV infection was a disability under the ADA. However, the Court vacated the judgment and remanded for further briefing and arguments on whether Dr. Bragdon was warranted in his determination that treating Abbott in his office would have

threatened the health and safety of others. The Supreme Court reasoned that notwithstanding the protection given Ms. Abbott by the ADA's definition of disability, Dr. Bragdon properly could have refused to treat her if he reasonably believed, based on a credible scientific basis (even if that scientific basis differed from the prevailing medical consensus), that her infectious condition posed a direct threat to the health or safety of others.

### **Litigation Center Involvement**

The Litigation Center submitted an amicus brief in the Supreme Court which argued that Dr. Bragdon was obliged under the ADA to treat a patient who tested positive for HIV.