**NONPRECEDENTIAL DISPOSITION**
To be cited only in accordance with Fed. R. App. P. 32.1

# United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Argued November 13, 2024*
Decided March 21, 2025

**Before**

FRANK H. EASTERBROOK, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-2428

DAVID FELIMON CERDA,
*Plaintiff-Appellant*,

*v.*

CHICAGO CUBS BASEBALL CLUB, LLC,
*Defendant-Appellee*.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 17 C 9023
Jorge L. Alonso, *Judge*.

**O R D E R**

When the Chicago Cubs renovated Wrigley Field between 2014 and 2019, they had to ensure that the ballpark satisfies the Americans with Disabilities Act. 42 U.S.C. §§ 12101–213; 47 U.S.C. §§ 225, 661. Wrigley Field was constructed in 1914, long before

* David A. Cerda, counsel for plaintiff, did not appear for oral argument and did not notify the court that he would not be present. Three weeks after the argument he told the court (through a proxy) that he was and remained in jail. He was released in late December and has not contacted the court since then. Rather than dismiss the appeal for want of prosecution, we have elected to examine some of the issues to ensure that the rights of persons situated similarly to plaintiff have been respected.

the ADA's enactment, but the statute applies to older buildings as they are renovated. Title III of the ADA requires the Attorney General to adopt regulations consistent with the guidelines issued by the Architectural and Transportation Barriers Compliance Board, also known as the Access Board. 42 U.S.C. §§ 12186(b), (c), 12204. The Access Board updated its guidelines in 2004, and in 2010 the Attorney General adopted them wholesale. 75 Fed. Reg. 56,236, 56,238–39 (Sept. 15, 2010); 28 C.F.R. Pt. 36, App. A, B. The parties call these the 2010 Standards. They agree that the 2010 Standards supply the governing rules, making it unnecessary for us to decide whether their validity or interpretation is affected by *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

The parties also agree that, under the 2010 Standards, Wrigley Field must have at least 209 locations accessible to patrons using wheelchairs. Accessible spots must be distributed throughout the park and "substantially equivalent to, or better than, the choices of seating locations and viewing angles available to all other spectators." 2010 Standards §221.2.3. The Cubs maintain that the renovated stadium has at least 225 qualifying spaces, but plaintiff David Cerda disagrees. He uses a motorized wheelchair and was happy with the options formerly available to him behind home plate or in the right-field bleachers. Seating near home plate was altered by the renovations, and the area in the bleachers that Cerda enjoyed ("the Budweiser Patio") is now sold exclusively to groups. Dissatisfied with his current options, Cerda contends in this suit that the Cubs must make additional changes.

The district judge held a five-day bench trial and found that, as renovated, Wrigley Field has at least 209 complying spaces available to patrons in wheelchairs. 2023 U.S. Dist. LEXIS 107124 (N.D. Ill. June 21, 2023). Cerda contends on appeal that the judge made some legal errors in determining which parts of the 2010 Standards apply to which areas, but the principal contention is that the judge made erroneous findings when concluding that the wheelchair-accessible locations in the 200 Tier, also known as the Terrace, have viewing angles "substantially equivalent" to other seats. More than a third of the accessible locations are in the Terrace, so if Cerda prevails on this issue the Cubs fall short of 209 qualifying seats.

Before we address the dispute about the Terrace, we deal with a dispute about Wrigley Field's club and luxury box locations. Cerda maintains that the 1914 Club, in particular, lacks any accessible seating locations, so that Wrigley Field's plan flunks the requirement that accessible seating be available throughout the park. Before trial the district court dismissed this aspect of Cerda's complaint, ruling that he lacks standing. 405 F. Supp. 3d 780 (N.D. Ill. 2019).

Standing to sue exists when the plaintiff has suffered an injury, caused by the defendant's conduct and redressable by a favorable judicial decision. *Lujan v. Defenders of*

*Wildlife*, 504 U.S. 555, 560–61 (1992). The judge thought that Cerda has not established injury because he is not a member of the 1914 Club, has not applied to join, has not suggested that he is willing to pay the steep entry fee (the 1914 Club also has a long waiting list for membership), and does not say that he knows any of the members. He has never been invited by a member to watch a game from the 1914 Club, and there is no prospect that he will be invited. We agree with the district court that Cerda therefore lacks standing to litigate any claims related to the seating arrangements inside the 1914 Club.

Let us turn to seating in the Terrace. Modern sports parks are built like shallow bowls. Capacity in such a stadium can be increased only by adding seats that are farther away and higher up. This places many spectators far from the action—but every seat has an unobstructed view of the field. Wrigley Field is more compact because it has multiple decks. Seating in the 300 and 400 Levels is on top of the 200 Level seating. This puts spectators closer to the players (hence the catchphrase "the friendly confines") but at the cost of obstructed views. Some spectators will be behind the piers holding up the higher decks. Others, especially in the Terrace, have vertical views blocked by the overhang of a higher deck and can't see the arc of a fly ball. These spectators also cannot see the scoreboards (either the original hand-operated scoreboard or the modern electronic ones). The Cubs have installed monitors to furnish views of fly balls and scoreboards, but many people prefer a natural sight.

Seating in the Terrace entails a tradeoff: inferior views (for seats far enough back for the view to be obstructed), but protection from rain (the deck above is an enormous umbrella). The accessible locations on the Terrace level also are close to elevators and concession stands. Cerda contends that obstruction of the sightlines means that the accessible spots on the Terrace level flunk the requirement of substantial equivalence to non-handicapped seating.

The district judge found that the accessible-seating locations in the Terrace satisfy the 2010 Standards for two principal reasons: first, non-handicapped patrons in the Terrace encounter the same viewing obstructions; second, wheelchair-using patrons have expressed a *preference* for these seats. The judge added that, since accessible seating at Wrigley Field has never sold out, a wheelchair user always can find a seat outside the Terrace.

The first of the district judge's points is not straightforward, because the accessible areas are toward the rear; on average, therefore, the sightlines must be worse. But the point that almost everyone in Terrace seating both faces some obstruction of view and enjoys some protection from the weather is undeniable.

The second point comes from the fact that, of the roughly 50 season tickets the Cubs sell each year to wheelchair-using patrons, more than half of the spectators choose to sit in the Terrace, and all but four of these choose seats with obstructed views. See 2023 U.S. Dist. LEXIS 107124 at *19 (data for 2023). The judge thought that these customers may prefer the ready access, the protection from foul weather, and the lower prices—for the Cubs understandably sell obstructed-view seats at lower prices than seats with full views. The district judge thought that wheelchair-using patrons have expressed their own judgment about the adequacy of these seats—a judgment that differs from Cerda's.

Whether one location is "substantially equivalent" to another is a mixed question, requiring the application of legal rules to physical facts. The Supreme Court has told us that, when the legal issues dominate, appellate review is plenary, but that when the factual issues dominate review is deferential. *U.S. Bank N.A. v. Village at Lakeridge, LLC*, 583 U.S. 387, 395–96 (2018); *Bufkin v. Collins*, 145 S. Ct. 728, 738–39 (2025). The dispute here is case-specific—it concerns how to understand conditions in the Terrace at Wrigley Field, not an abstract legal question about the meaning of the 2010 Standards. We therefore ask whether the district judge's conclusion is clearly erroneous, see Fed. R. Civ. P. 52(a)(6), and hold that it is not. The accessible locations in the Terrace count toward the required 209.

Next up: the 300 Level (the deck above the Terrace). Views from accessible locations on this level are unobstructed, and Cerda finds them desirable. But he contends that many spots do not meet the 2010 Standards because they lack the front-to-back room required for an accessible space, unless an inch or two where a patron can tuck toes under a railing counts. The district judge held that toe room under the railing counts. This is a legal issue (the decision depends on an interpretation of the 2010 Standards), and Cerda contends that the judge got the law wrong.

Things have changed since Cerda filed suit. In 2022 the United States filed its own suit under the ADA, *United States v. Chicago Baseball Holdings, LLC*, No. 22 C 3639 (N.D. Ill.), contending that Wrigley Field is short of the required 209 spaces. The United States also filed a brief as amicus curiae in this case, agreeing with Cerda on some matters, including the toe-room dispute (U.S. Br. 14–20). That suit was settled, and on November 19, 2024, six days after the oral argument of this appeal, District Judge Pacold approved a consent decree that obliges the Cubs to provide additional front-to-back room for some locations and make additional changes, such as eight new accessible seats in the front row and improvements to accessible seating in the Terrace and bleachers.

The Cubs tell us that, with these changes, Wrigley Field will have 217 qualifying accessible locations as the United States counts them. (The United States has not furnished us with its own calculation.) Judge Pacold must believe that there are at least 209, or she would not have approved the consent decree. Cerda has not contended that the Cubs' representation is incorrect, nor has he argued that his appeal should be held in abeyance until all alterations required by the consent decree have been made.

Given our conclusion that the district judge's findings about Terrace seating are not clearly erroneous, and the Cubs' promise to improve other locations, it is unnecessary to discuss Cerda's remaining arguments (such as his contention that 15 spaces in the "Batter's Eye" portion of Wrigley Field are noncompliant because a screen designed to improve batters' sightlines makes the illumination too dim).

We have not addressed all of the arguments in Cerda's brief, but those that we have let pass either do not affect the outcome or were well handled by the district judge.

AFFIRMED