

No. 04-1203

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

STATE OF GEORGIA, ET AL.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT*

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 to 12165, is a proper exercise of Congress's power under Section 5 of the Fourteenth Amendment, as applied to the administration of prison systems.

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The Acting Solicitor General, on behalf of the United States of America, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, 1a-22a) is unreported. The opinion of the district court (App., *infra*, 23a-27a) is unreported.

JURISDICTION

The court of appeals entered its judgment on September 16, 2004. A petition for rehearing was denied on December 9, 2004 (App., *infra*, 29a-30a). This Court's jurisdiction is invoked under 28 U.S.C. 1254(1).

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 02-10168
D.C. Docket No. 99-00012-CV-JEG-6
TONY GOODMAN, PLAINTIFF-APPELLANT

v.

O.T. RAY, ET AL., DEFENDANTS
THE STATE OF GEORGIA, DEFENDANT-APPELLEE
UNITED STATES OF AMERICA, INTERVENOR

Appeal from the United States District Court
for the Southern District of Georgia

[Filed: Sept. 16, 2004]

OPINION

Before: CARNES, HULL and HILL, Circuit Judges.

HULL, Circuit Judge:

Plaintiff Tony Goodman, a paraplegic state prisoner, appeals (1) the dismissal of his Eighth-Amendment claims brought under 42 U.S.C. § 1983, and (2) the grant of summary judgment on his disability-discrimination claims brought under Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131, *et seq.* (“ADA”).

