

Stoutenborough v. National Football League

59 F.3d 580 (6th Cir. 1995).

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After a local broadcast of the Cleveland Browns was blacked out for failing to sellout, Thomas Stoutenborough filed a class action complaint in federal district court against the National Football League ("NFL"), the Browns, and several television stations alleging violations of the Americans with Disabilities Act by the NFL's blackout rule. The NFL's blackout rule prohibits live broadcast of home football games that are not sold out 72 hours before the start of the game in the home territory, defined as within 75 miles of the home city. Stoutenborough argued that the blackout law unlawfully discriminated against the hearing-impaired in a disproportionate way because they have no other means of accessing the football game via telecommunications technology. Therefore, the hearing-impaired were denied the substantially equal access Stoutenborough claimed the Americans with Disabilities Act requires. The district court dismissed Stoutenborough's complaint for failure to state a claim upon which relief can be granted and this appeal followed.

Title III of the Americans with Disabilities Act provides "no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owes, leases (or leases to), or operates a place of public accommodation."

The Sixth Circuit Court of Appeals affirmed the decision of the district court, holding that the blackout rule was not discriminatory because it applied to both the hearing and hearing-impaired populations and the fact that the hearing population could listen to the game on the radio was irrelevant because the rule did not reach or impact radio broadcasting.

The Court of Appeals also held that NFL broadcasts did not fit within any of the definitions of Title III of the Americans with Disabilities Act. It was not a public accommodation, a facility, or a service associated with a public accommodation for purposes of the statute. The game might be played at a public accommodation and viewed on a television at another, but that did not suffice to make the game broadcast a service offered at a public accommodation under the Act.

The Court also rejected Stoutenborough's argument that Title IV of the Act, in conjunction with the Communications Act of 1934, protects the hearing-impaired in the context of television broadcast services. Title IV, however, requires common carriers make certain accommodations to the hearing-impaired in the provision of telephone services and requires closed captioning on public service announcements produced or funded by federal agencies. Neither of these requirements reaches NFL broadcasts.

Because NFL broadcasts did not fit any of the requisite definitions under the Americans with Disabilities Act of services the Act was intended to protect, the court affirmed the district court's dismissal of Stoutenborough's complaint against the NFL.