



Argenyi v. Creighton University

Summary of Action

January 16, 2013

On January 15, 2013 a three judge panel of the United States Court of Appeals for the Eighth Circuit issued its decision in the Appeal of Michael S. Argenyi v. Creighton University.

Michael is a deaf person who began using hearing aids before he was one year old. To distinguish between sounds that appear the same on a speaker's lips, Michael relied on "cued speech," which uses hand signals to represent sounds. He does not know sign language.

In the eighth grade he began using Communication Access Real-time Transcription (CART), a system that transcribes spoken words into text on a computer screen. He also received a cochlear implant before he began undergraduate studies.

While attending Seattle University he used both cued speech and the CART system as an accommodation and graduated with a 3.87 GPA.

When Michael applied for admission to Creighton Medical School he noted that he was hearing impaired and asked for reasonable accommodations under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act.

Creighton University offered alternative assistance which Michael tried but the alternate methods of accommodation failed to meet his needs. In fact, one expert noted that the auxiliary aid offered by the University worsened Michael's speech recognition.

Michael continued to ask for the cued speech interpreter and CART system. In spite of his requests, Creighton University refused to provide the needed accommodations.

Without the accommodations, Michael was unable to follow lecturers, participate in labs, or communicate with patients. Michael borrowed over \$100,000 to provide for his own accommodation so he could stay in medical school.

Michael came to Disability Rights Nebraska for help. When negotiations with the Creighton University Medical School failed we filed suit in the federal District Court on September 24, 2009.¹

¹ In collaboration with our co-counsel, Mary C. Vargas and Michael S. Stein of Stein & Vargas and Marc Charnatz of the National Association of the Deaf.

Before Michael had the opportunity for a trial, the district court judge determined that Michael had not shown that the requested accommodations were “necessary” within the meaning of the law and she dismissed the case.

Michael appealed that decision to the Eighth Circuit Court of Appeals. Mary Vargas argued the appeal and Disability Rights Nebraska filed the brief seeking to reverse the lower court decision.²

In a sixteen page unanimous opinion, written by Senior Judge Diana Murphy, the appeals court reversed the lower court’s ruling and ordered the case back to the lower court for trial.

The Appeals Court found:

- the lower court misinterpreted the law plus a key U.S. Supreme Court decision, and
- Michael presented sufficient facts to raise the issue of whether Creighton University had discriminated against him based on his disability.

The Appeals Court concluded that Creighton University is required to provide reasonable auxiliary aids and services to allow "meaningful access" or an equal opportunity for Michael to gain the same benefit as his nondisabled peers.

The issue to be decided by the trial court is whether Creighton denied Michael an equal opportunity to gain the same benefit from medical school as his nondisabled peers by refusing to provide his requested accommodations.

This is a wonderful victory for Michael. We are very happy for him and for the chance to argue the case before the district court.

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² The United States Department of Justice and the United States Department of Education filed an Amicus Briefs in support of Michael’s appeal. The Alexander Graham Bell Deaf Advocacy Center (AG Bell), the Association of Medical Professionals with Hearing Loss, and the National Disability Rights Network (NDRN) also jointly filed an Amicus Brief in support of the appeal.