

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA**

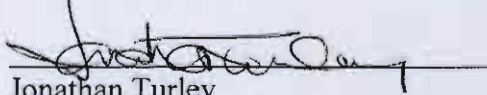
GRANT O. ADAMS, et al.,	)	
	)	
Petitioners	)	
	)	
vs.	)	Case No. 07-1180
	)	(Consolidated with Cases Nos. 07-1194,
DEPARTMENT OF TRANSPORTATION	)	and 07-1226).
AND FEDERAL AVIATION	)	
ADMINISTRATION	)	
Respondent.	)	
	)	
	)	

**STATEMENT OF ISSUES**

- I. Whether the categorical use of age 60 as the determinative fact for denying waivers violates the Age Discrimination in Employment Act (ADEA) because the use of age in this circumstance is not a bona fide occupational qualification under federal law.
  
- II. Whether the categorical use of age 60 as the determinative fact for denying waivers violates the Rehabilitation Act, 29 U.S.C. §794 by discriminating on the basis of a disability.
  
- III. Whether the categorical use of age 60 as the determinative fact for denying waivers violates the Administrative Procedure Act by barring pilots from individualized determination of eligibility.
  
- IV. Whether categorical use of age 60 as the determinative fact for denying waivers violates the due process rights of pilots under the United States Constitution.

V. Whether the categorical use of age 60 as the determinative fact for denying waivers violates the equal protection clause of the United States Constitution.

Respectfully submitted,



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Counsel for Petitioners

Dated: July 20, 2007



E. Allan Englehardt  
Patrick Gravitt  
James Sullivan  
Anthony Gentile  
Larry I. Tubor  
George M. Conway III  
Wayne G. Savage  
Charles Henry  
Robert C. Ritchie  
van Cortlandt de Peyster  
Tom N. Park  
Lewis Tetlow III  
Gary J. Casperson  
Robert Howard Attaway  
Jack Chapman  
William Basil Mann, Jr.  
Frank Malone  
James D. Hodgson  
George V. Emory  
Charles Robert Musick, Jr.  
Gary C. Shepard

April 13, 2007 orders:

James Bertelson  
Steven P. Zandstra  
Akeary G. Vick  
Michael J. Peet  
James R. Woody  
Steven McBride  
Robert Louis Reusche II  
John L. Schiff  
Kenneth Ciszek  
Paul J. Rodgers, Jr.  
George J. Walters  
Kenneth Paul Shrum  
Michael W. Ballard  
Michael E. Newton  
Bruce Davey  
Robert Gibson  
George Walters  
Susan Williams Harrison  
Richard Land  
David Graham  
Thomas R. Bell  
David Pelham  
James A. Cantrell III

David McCord  
Irby R. McNerlin  
Glen Kane  
Jose R. Arias  
Carl C. Chappell Jr.  
Randal E. Smith  
Irwin Pentland  
F. Theodore Schott  
Abe R. Balderrama  
Robert W. Hickson  
Grant O. Adams  
Woodrow W. Friend, Jr.  
Raymond O. Lysen  
Lyle M. Speace Jr.  
Richard A. Hinnenkamp  
Bradley V. Smith  
Terrence Joseph Brady  
Dennis M. Cox  
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May 9, 2007

Brian Wilson Wretschko  
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**Case #07-1194**

April 13, 2007

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**Case #07-1226**

April 13, 2007

Donald N. Persky

April 26, 2007

James R. Sweller

## **Rule 28 (1) (B) Rulings Under Review**

Petitioners are challenging the FAA's refusal to make individual determinations of waiver under the Age 60 Rule for pilots. The individual orders issued in this case are listed below:

### **Case # 07-1180**

#### April 6, 2007 orders:

Exemption No. 8860 (Earl Myers, Jr.)  
Exemption No. 8866 (Lorenzo Sein)  
Exemption No. 8872 (James Owens)  
Exemption No. 8875 (Stephen Avery)  
Exemption No. 8877 (Jerry Pearson)  
Exemption No. 8879 (Richard Morgan)  
Exemption No. 8880 (Ivan Beach)  
Exemption No. 8886 (Donald Krstich)  
Exemption No. 8889 (Charles Hosmer)  
Exemption No. 8892 (Norman Stocker)  
Exemption No. 8894 (E. Allan Englehardt)  
Exemption No. 8898 (Patrick Gravitt)  
Exemption No. 8900 (James Sullivan)  
Exemption No. 8902 (Anthony Gentile)  
Exemption No. 8907 (Larry I. Tubor)  
Exemption No. 8910 (George M. Conway III)  
Exemption No. 8915 (Wayne G. Savage)  
Exemption No. 8924 (Charles Henry)  
Exemption No. 8929 (Robert C. Ritchie)  
Exemption No. 8932 (van Cortlandt de Peyster)  
Exemption No. 8938 (Tom N. Park)  
Exemption No. 8943 (Lewis Tetlow III)  
Exemption No. 8947 (Gary J. Casperson)  
Exemption No. 8952 (Robert Howard Attaway)  
Exemption No. 8956 (Jack Chapman)  
Exemption No. 8964 (William Basil Mann Jr.)  
Exemption No. 8966 (Frank Malone)  
Exemption No. 8970 (James D. Hodgson)  
Exemption No. 9010 (George V. Emory)  
Exemption No. 9011 (Charles Robert Musick Jr.)  
Exemption No. 9028 (Gary C. Shepard)

#### April 13, 2007 orders:

Exemption No. 8990 (James Bertelson)  
Exemption No. 8993 (Steven P. Zandstra)  
Exemption No. 8999 (Akeary G. Vick)  
Exemption No. 9032 (Michael J. Peet)

Exemption No. 9035 (James R. Woody)  
Exemption No. 9040 (Steven McBride)  
Exemption No. 9044 (Robert Louis Reusche II)  
Exemption No. 9054 (John L. Schiff)  
Exemption No. 9058 (Kenneth Ciszek)  
Exemption No. 9059 (Paul J. Rodgers Jr.)  
Exemption No. 9079 (George J. Walters)  
Exemption No. 9080 (Kenneth Paul Shrum)  
Exemption No. 9085 (Michael W. Ballard)  
Exemption No. 9087 (Michael E. Newton)  
Exemption No. 9091 (Bruce Davey)  
Exemption No. 9093 (Robert Gibson)  
Exemption No. 9097 (George Walters)  
Exemption No. 9110 (Susan Williams Harrison)  
Exemption No. 9112 (Richard Land)  
Exemption No. 9113 (David Graham)  
Exemption No. 9121 (Thomas R. Bell)  
Exemption No. 9126 (David Pelham)  
Exemption No. 9130 (James A. Cantrell III)  
Exemption No. 9131 (David McCord)  
Exemption No. 9143 (Irby R. McNerlin)  
Exemption No. 9151 (Glen Kane)  
Exemption No. 9154 (Jose R. Arias)  
Exemption No. 9156 (Carl C. Chappell Jr.)  
Exemption No. 9157 (Randal E. Smith)  
Exemption No. 9173 (Irwin Pentland)  
Exemption No. 9210 (F. Theodore Schott)  
Exemption No. 9211 (Abe R. Balderrama)  
Exemption No. 9213 (Robert W. Hickson)  
Exemption No. 9214 (Grant O. Adams)  
Exemption No. 9216 (Woodrow W. Friend, Jr.)  
Exemption No. 9217 (Raymond O. Lysen)  
Exemption No. 9218 (Lyle M. Speace Jr.)  
Exemption No. 9220 (Richard A. Hinnenkamp)  
Exemption No. 9225 (Bradley V. Smith)  
Exemption No. 9229 (Terrence Joseph Brady)  
Exemption No. 9232 (Dennis M. Cox)  
Exemption No. 9238 (Gordon M. Cohen)  
Exemption No. 9246 (Louis F. Zajicek Jr.)

May 9, 2007

Exemption No. 9274 (Brian Wilson Wretschko)  
Exemption No. 9276 (David B. Mickle)  
Exemption No. 9288 (Karl E. Krumke, III)

**Case #07-1194**

April 13, 2007

Exemption No. 9152 (Keith L. McCormick)

May 9, 2007

Exemption No. 9275 (David B. Patton)

**Case #07-1226**

April 13, 2007

Exemption No. 9107 (Donald N. Persky)

April 26, 2007

Exemption No. 9178 (James R. Sweller)

**Rule 28 (1) (C) Related Case Citation:**

As noted above, the court has consolidated three identical cases: Cases Nos. 07-1180, 07-1194, and 07-1226.

Respectfully submitted,



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Dated: July 20, 2007

