

Perspectives of Professional Golfers on the PGA's ADA Obligations

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Abstract

More than a decade after winning a legal battle for his right to use a cart on the US PGA Tour under the Americans with Disabilities Act (ADA), Casey Martin returns to the Olympic Club to play in the same tournament. The cart debate reopens. The Supreme Court ruled with a 7-2 decision in Martin's favor, showing a strong indication that it upholds the intent of the ADA. However, from the athlete's perspective, the ruling is a triumph of sense over sensibility. Fairness in sports competitions simply means that all competitors play by the same rules. Once the sporting rules and procedures are intervened and challenged before courts, the autonomy of sports and the governing role of sports organizations would be shaken up by several ruling and decisions against the sporting community. The implications of having different values on the Casey Martin case are presented in the end.

Keywords: casey martin, professional golf association, americans with disabilities act

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Introduction

In 1997, Casey Martin, an aspiring professional golfer, filed a lawsuit against the PGA Tour for the right to use a golf cart in competition. The tour appealed. The case went all the way to the U.S. Supreme Court, which was in favor of Martin under Title III of the ADA. It was, as a matter of fact, an excruciating time for Martin who was opposed by some of his heroes like Jack Nicklaus who said walking is a fundamental part of the game. Fourteen years later, Martin returns to golf's U.S. Open and the cart of questions rides along. Over the past years, many critics have spoken out on the behalf of Casey Martin against the PGA Tour. It is not surprisingly that Martin has received so much public support since he is brave, capable, and sympathetic. In the case *Casey Martin vs. PGA Tour, Inc.*, a debate still remains in the interpretation of the ADA's regulations and its impact on sports organizations.

Facts on the Martin Case

American golfer Casey Martin grieves from a degenerative circulatory disorder known as Klippel-Trenaunay-Weber Syndrome. This condition makes his right leg tremendously pain and weak. During his college years and the initial stages of his professional career, Martin was permitted to ride a golf cart during tournaments due to his disability. Continuing to advance his professional golfing career, Martin petitioned the Professional Golf Association (PGA) Tour for authorization to use a cart in the PGA Tour events. The PGA Tour refused Martin's request claiming that walking is fundamental to the game of golf. In response to the PGA's refusal, Martin filed a lawsuit in the federal court in Oregon in 1998 against the PGA Tour for the right to ride a cart in competition. In his claim, Martin sought a declaratory judgment regarding the application of the Americans with Disabilities Act (ADA) to athletic events and sports organizations. Specifically, Martin demanded that his disability qualified under Title I of the ADA and declared that a golf course used for a professional tournament is a "place of public accommodation" as defined under Title III of the ADA. The PGA Tour did not argue that Martin had a disability within the scope of the ADA. It also did not argue that this disability kept Martin from walking the golf course while playing a round of golf. Rather, the PGA Tour defended its position by arguing that it was a private entity exempt from the ADA, and that the ADA does not require any modification if it would alter the nature of the game.

U.S. Supreme Court's Decision

On May 29, 2001, the United States Supreme Court rendered an opinion in *PGA Tour, Inc., v. Martin*, 532 U.S. 661 (2001). In *Casey Martin*, the Court, by a vote of 7-2, ruled that the United States Court of Appeals for the Ninth Circuit's decision allows Martin to use a cart. Denying Martin's request was a violation of the ADA. More specifically, the Court stated that the PGA Tour was subject to the mandates of the Title III of the ADA, and Martin was a member of the protected class of persons. Also, the Court indicated that a cart would not fundamentally alter the nature of competitive golf tournaments, and further found that allowing Martin the right to use a golf cart would not create an unjust favor for him because Martin endures greater fatigue even with a cart than do the other PGA competitors.

Americans with Disabilities Act

The ADA, enacted by Congress in 1990, prohibits discrimination on the basis of disability in employment, government programs and facilities, and public accommodations. The Supreme Court in 2001 took a debatable step to apply the ADA to the sport of golf, ruling that disabled golfer Casey Martin is permitted to use a golf cart to play in PGA Tour tournaments. "Without the ADA I never would have been able to pursue my dream of playing golf professionally," Casey Martin says. The ADA is recognized as a powerful nondiscrimination law for individuals with disabilities. According to the Act, some 43 million Americans are disabled. Though the ADA is usually applied in the employer-employee relationship, it also applies to public facilities like public schools and other government entities and to privately owned businesses and services that provide public accommodations, student-athletes attending public and private institutions (Epstein, 2003). The ADA is divided into four general sections: Title I – Employment, Title II – Public Services (applies to public institutions), Title III – Public Accommodations and Services Operated by Private Entities (applies to private institutions), and Title IV – Telecommunications and Common Carriers. Title II and III appear to be the most relevant to sports and the law (Epstein, 2003). However, despite its lofty goals, the ADA has been a source of controversy since its passage, with many arguing that it reaches too far into every aspect of American society (Coleman & Debruge, 1993). Howard (1995) notes that "the ADA gave the disabled the right to sue virtually every

establishment, public or private, for discrimination," but argues that the fight for rights under the ADA has become "obsessive" and that handing out these rights "does not resolve conflict. It aggravates it."

PGA Arguments

There are three major areas of focus in this case: (1) is the PGA Tour exempted from the application of the ADA, (2) is the use of golf cart a reasonable modification, and (3) does the use of a golf cart fundamentally alter the nature of the PGA Tour? The PGA stated at the Court that it was not subject to the Title III of the ADA. The golf courses are not places of public accommodation, and the area inside the rope is a restricted area that is not open to the public. It is not used as a place of recreation or exercise. It is a private area of competition, where participants pay an entry fee and are competing to win money (Street Law, 2001). Enacted in 1990, the ADA provides protection for everyone against discrimination based on disability. And the Title III administrates places of public accommodations and demands that an owner or operator make reasonable modifications unless they would be a fundamental alteration of the nature of the goods or services provided. However, the PGA argued that the use of a golf cart would fundamentally alter the tournament competitions. An important skill for golf competitors is to be able to compete under pressure and different conditions. Using a cart would give someone an advantage all the time and especially when golfers are forced to play 36 holes on a rainy day, in humidity, under 90 degree temperatures, or when the terrain is mountainous (Street Law, 2001). The PGA also argued that walking adds fatigue into the skill of shot making, creating an outcome-affecting rule. An important skill for golf competitors is to be able to compete under pressure and different conditions. Allowing a golfer to use a cart would, therefore, fundamentally alter the nature of the game. Walking has been an integral part of golf throughout its history. Making concessions to some competitors and not others compromises the integrity of the game. The rules of the game must be the same for all competitors in order to make the competitions fair (Street Law, 2001).

Professional Golfers' Perspectives

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The PGA has taken a firm stance on the Martin case. The Commissioner Tim Finchem

stated that the ruling "clearly focused on Casey Martin and Casey Martin only." The case was about one man's medical condition, in other words -- nothing more (Johnson, 2000). Most of today's top players seem to be in agreement with the commissioner. Hal Sutton, a golfer who also is a member of the tour's policy board, said many pros have bad backs and might now apply to use a cart. Sutton himself has had back problems. "In Casey's particular case, there's no doubt about his disability," Sutton said before a practice round for this week's Memorial Tournament. "This is not about Casey Martin. It's about the possibilities it opens up. The next person's disabilities -- it might not be as clear" (SportsIllustrated.CNN.com, 2001). One of the PGA Tour's most outspoken players is Curtis Strange, who is also a commentator for ABC Sports. Strange said, "We all must rule with our heads in this case and not our hearts." His primary contention, like many others, was that golf is a walking game. By allowing Casey to ride a cart would be destroying the traditions of the game (Johnson, 2001). Jack Nicklaus took issue with the justices' opinion that walking was not a fundamental part of the sport. "I think we ought to take them all out and play golf," Nicklaus said. "I think they'd change their minds. I promise you, it's fundamental." Nicklaus and Arnold Palmer have said that using a cart would give Martin an advantage and undermine a basic part of the game (SportsIllustrated.CNN.com, 2001). "Walking six miles a day six days a week is part of the deal," said another tour veteran, Steve Pate. "If you don't think we're a sport, then a part of my premise is gone. But I think we are. "In sports, everybody brings their own strengths and weaknesses to the game and whoever can overcome their weaknesses and maximize their strengths is going to do well. It's maybe not fair, but I just think it's the way it should be," Pate said (SportsIllustrated.CNN.com, 2001). Tiger Woods said, "I can't be rational about this decision just because I have feelings. And my emotions are with Casey" (ESPN.com, 2001). David Duvall said, "It's like something you don't really even question in the NFL or Major League Baseball or anything else. They make their own rules. They set up and play by their rules. And if an organization loses that ability, I don't know where it stops then" (ESPN.com, 2001). Phil Mickelson said, "The perfect scenario would be for the tour to win and grant an exception for Casey to ride a cart" (ESPN.com, 2001). And yet, Greg Norman, the Great White Shark, disagreed with many of his fellow golfers and stated that the PGA tour should welcome everyone to come play the game, whether you are black, whether you are white, whether you are disabled, whether you are male, whether you are a female, or whether you are old, or whether you are young (Shark.com, 2001).

Possible Effects on Professional Sports

Casey Martin was the first professional athlete to litigate successfully under the ADA. The most common argument criticizing the result of the Martin case is the fear that this holding will break down the traditional rules of the golf game, and would lead to many more cases. Professional sports are simply tests of excellence. All professional golfers must perform those tasks defined by the rules of the sports. More importantly, uniform rules are essential for the integrity of the sport. The decision of the Supreme Court will set up an example for other professional sports. Consequently, professional sports organizations are not exempt from the law. Some critics argued that a decision in favor of Martin would open up the floodgates of litigation for disabled individuals to legally obtain their place in the world of sports. To be “qualified” as a disabled person to compete in a professional sport can be tough and confusing. This would bring up the basic question of fairness again. The PGA has a long-standing rule forbidding golf in its major professional tournaments. All golfers are required to walk during tournaments. The court will now have authority to determine the rules of a particular sport.

Conclusion

"It's never been an issue of Casey, it's been an issue of principle," Jack Nicklaus said (abcNews.go.com, 2001). Unquestionably, Casey Martin is a remarkable individual, an admirable role model, and a skilled professional golfer. However, the applicability of the ADA in the context of the rules of a professional sport is questionable. It is of no doubt that the disabled sports men and women should be given every rational opportunity to enjoy the privileges, facilities, and services that other athletes enjoy. However, an essential aspect of any athletic competition is that all competitors follow the same rules, especially at the level of professional sports. This case is about the ability to ride a cart in the PGA Tour events. The courts should not just look strictly at the ADA issues. Justice Antonin Scalia, one of the two dissenting votes, rejected the notion that the Court could determine the essential nature of golf since the rules of golf “are (as in all games) entirely arbitrary” (Sandel, 2009). They should take PGA golfers’ opinions into account because they know and play the game well. All of today’s top professional golf players seem to be in agreement with “walking is an

integral part of the game.” Doesn’t that mean anything to this case? More importantly, applying the ADA to professional sports will have serious impact on professional sports. This case may not be just about Casey Martin. Shouldn’t the PGA tour or any other institutions have the ability to make their own rules and regulations? This case could forever alter both the ADA and the law of professional sports. That’s why most professional golf players were not hoping that this case is going to be a landmark decision.

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職業高爾夫選手對於 PGA 在美國殘疾人法案下應負義務之觀點

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摘要

十多年前，凱西馬汀根據美國殘疾人法案（ADA）打贏了一場訴訟官司，得以在 PGA 美國公開賽中使用高爾夫球車。如今，他重返相同的奧林匹克俱樂部球場，打同樣的美國公開賽。因此，可否在比賽中使用高爾夫球車的辯論，又重新開啓了。最高法院曾以 7 比 2 的優勢裁決，顯示對於 ADA 的強烈支持意圖。然而，從運動員的角度來看，此項判決是感性戰勝理性。在運動競賽中的公平性，簡單地說就是選手必須在相同的規則下進行競爭。一旦競賽的規則和程序受到法院的干預和挑戰，運動的自主性和體育組織的治理角色將被數個對於體育界不利的裁決和決定所撼動。文末對於該案不同價值觀念的意涵提出看法。

關鍵詞：凱西馬汀、職業高爾夫協會、美國殘疾人法案

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