

# Walking your Service Animal Down the Long Road to Justice

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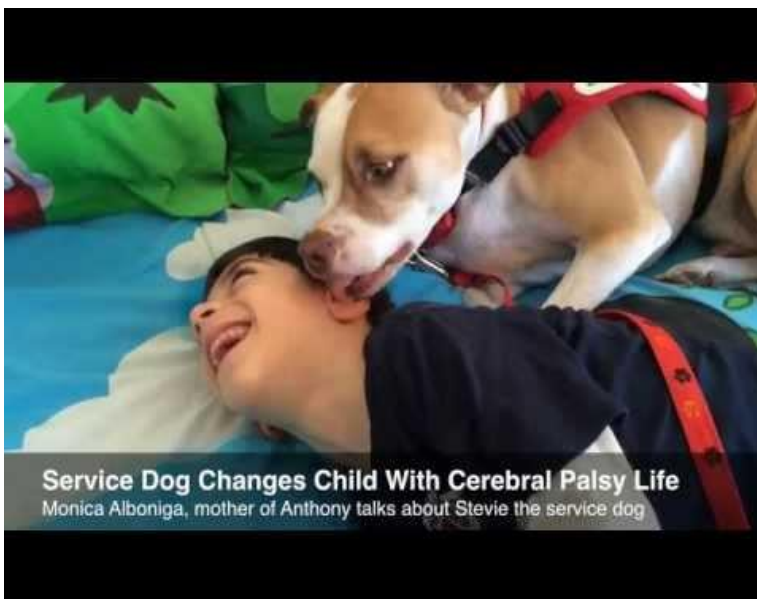
In 2009, Ehlena Fry, an eight-year-old girl, living with spastic quadriplegic cerebral palsy, obtained “Wonder” a specially trained and certified service dog who helps Ehlena with retrieving dropped items, helping her balance when she uses her walker, opening and closing doors, turning on and off lights, helping her take off her coat, helping her transfer to and from the toilet. Wonder also helps Ehlena to develop independence and confidence and helps her bridge social barriers. She was denied permission to bring her service animal to her Ohio public school, and it took **eight** years to finally receive vindication of her rights from the United States Supreme Court to bring her service animal to school under the ADA on February 22, 2017. The main issue in the case is whether she was required to exhaust administrative procedures under the Individuals with Disabilities Education Act (IDEA) to bring claims under the Americans with Disabilities Act.



Two years earlier, on February 10, 2015, Disability Independence Group vindicated seven year old, Anthony Marchante’s rights to bring his service animal to school under the ADA. Like Ehlena, Anthony Marchante lives with cerebral palsy and is highly prone to seizures. His medium-sized terrier service dog, Stevie, alerts others to oncoming convulsions and helps calm the boy by licking his face. Stevie was prescribed by Anthony’s neurologist at Miami Children’s Hospital and is part of Anthony’s treatment protocol. In order to be a service animal, the dog must have a temperament that allows it to stay focused on its job.

Unlike the District Court and the Appeals Court that ruled against Ehlena, United States District Court Judge Beth Bloom wrote a 41 page decision finding that not only did Stevie need to go through the IDEA's administrative provisions, but also had the right to have the option to bring his service dog to school. Judge Bloom's Order is attached here.

Now, there is no dispute in the law, and Anthony Merchante will be allowed to bring Stevie, or any other service animal, to school. In determining whether a child is required to go through the administrative procedures of an individualized education program or a due process hearing, the Supreme Court provided a two question test:



1. Could the child have brought essentially the same claim if the alleged conduct had occurred at a public facility that was not a school—say, a public theater or library?

2. Could an adult at the school—say, an employee or visitor—have pressed essentially the same grievance?

This decision goes far beyond the right to bring a service dog to school, but it relates the whole panoply of access-related or communication services that do not involve the denial of a Free and Appropriate Public Education. For example, litigation may be brought for issues of disability discrimination such as the failure to have accessible performances for persons in wheelchairs, or sign language interpreters for classes.

*All cases are dependent on many factors that may or may not be present in all cases. As such, results may not be typical. You may not have as beneficial a result.*