

**15-486 IVY V. MORATH**

DECISION BELOW: 781 F.3d 250

LOWER COURT CASE NUMBER: 14-50037

**QUESTION PRESENTED:**

Title II of the ADA and Section 504 of the Rehabilitation Act prohibit state agencies from denying access to their programs, services, or activities to individuals on account of their disabilities, including hearing- disabled individuals like Petitioners. The Fifth Circuit held, 2-1, that despite evidence of the Texas Education Agency's ("TEA's") pervasive involvement in every aspect of a state-mandated, driver-education program, such involvement did not rise to the level of a "service, program, or activity" of the state when it was farmed out to a private vendor. The opinion underscores an existing, and growing, uncertainty in federal and state jurisprudence and presents the following question:

Did the Fifth Circuit err in deciding that the relationship between public and private actors does not invoke dual obligations to accommodate in any context other than an express contractual relationship between a public entity and its private vendor?

**ORDER OF OCTOBER 31, 2016: VACATED AND REMANDED WITH INSTRUCTIONS TO DISMISS AS MOOT.**

**CERT. GRANTED 6/28/2016**