

at least if she does not offer a sufficient explanation. For that reason, we hold that an ADA plaintiff cannot simply ignore the apparent contradiction that arises out of the earlier SSDI total disability claim. Rather, she must proffer a sufficient explanation.

The lower courts, in somewhat comparable circumstances, have found a similar need for explanation. They have held with virtual unanimity that a party cannot create a genuine issue of fact sufficient to survive summary judgment simply by contradicting his or her own previous sworn statement (by, say, filing a later affidavit that flatly contradicts that party's earlier sworn deposition) without explaining the contradiction or attempting to resolve the disparity. See, e.g., *Colantuoni v. Alfred Calcagni & Sons, Inc.*, 44 F.3d 1, 5 (C.A.1 1994); *Rule v. Brine, Inc.*, 85 F.3d 1002, 1011 (C.A.2 1996); *Hackman v. Valley Fair*, 932 F.2d 239, 241 (C.A.3 1991); *Barwick v. Celotex Corp.*, 736 F.2d 946, 960 (C.A.4 1984); *Albertson v. T.J. Stevenson & Co.*, 749 F.2d 223, 228 (C.A.5 1984); *Davidson & Jones Development Co. v. Elmore Development Co.*, 921 F.2d 1343, 1352 (C.A.6 1991); *Slowiak v. Land O'Lakes, Inc.*, 987 F.2d 1293, 1297 (C.A.7 1993); *Camfield Tires, Inc. v. Michelin Tire Corp.*, 719 F.2d 1361, 1365-1366 (C.A.8 1983); *Kennedy v. Allied Mutual Ins. Co.*, 952 F.2d 262, 266 (C.A.9 1991); *Franks v. Nimmo*, 796 F.2d 1230, 1237 (C.A.10 1986); *Tippens v. Celotex Corp.*, 805 F.2d 949, 953-954 (C.A.11 1986); *Pyramid Securities Ltd. v. IB Resolution, Inc.*, 924 F.2d 1114, 1123 (C.A.D.C.), cert. denied, 502 U.S. 822, 112 S.Ct. 85, 116 L.Ed.2d 57 (1991); *Sinskey v. Pharmacia Ophthalmics, Inc.*, 982 F.2d 494, 498 (C.A.Fed. 1992), cert. denied, 508 U.S. 912, 113 S.Ct. 2346, 124 L.Ed.2d 256 (1993). Although these cases for the most part involve purely factual contradictions (as to which we do not necessarily endorse these cases, but leave the law as we found it), we believe that a similar insistence upon explanation is warranted here, where the conflict involves a legal conclusion. When faced with a plaintiff's previous sworn statement asserting "total disability" or the like, the court should require an explanation of any apparent inconsistency with the necessary elements of an ADA claim. To defeat summary judgment, that explanation must be sufficient to warrant a reasonable juror's concluding that, assuming the truth of, or the plaintiff's good faith belief in, the earlier statement, the plaintiff could nonetheless "perform the essential

functions" of her job, with or without "reasonable accommodation."

III

In her brief in this Court, Cleveland explains the discrepancy between her SSDI statements that she was "totally disabled" and her ADA claim that she could "perform the essential functions" of her job. The first statements, she says, "were made in a forum which does not consider the effect that reasonable workplace accommodations would have on the ability to work." Brief for Petitioner 43. Moreover, she claims the SSDI statements were "accurate statements" if examined "in the time period in which they were made." *Ibid.* The parties should have the opportunity in the trial court to present, or to contest, these explanations, in sworn form where appropriate. Accordingly, we vacate the judgment of the Court of Appeals and remand the case for further proceedings consistent with this opinion.

It is so ordered.

Justice Breyer delivered the opinion for a unanimous Court.

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DEPARTMENT OF STATE

[Public Notice 3196]

Culturally Significant Objects Imported for Exhibition; Determinations: "Ancient Faces: Mummy Portraits from Roman Egypt"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, I hereby determine that the objects to be included in the exhibition "Ancient Faces: Mummy Portraits from Roman Egypt" imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York City, from on or about February 14, to on or about May 7, 2000, is in the national interest. Public notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619-6981). The address is U.S. Department of State, SA-44; 301 4th Street, S.W., Room 700, Washington, D.C. 20547-0001.

Dated: December 22, 1999.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

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DEPARTMENT OF STATE

[Public Notice 3197]

Culturally Significant Objects Imported for Exhibition; Determinations: "Masterpieces of Korean Ceramics from the Museum of Oriental Ceramics, Osaka"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, I hereby determine that the objects to be included in the exhibition "Masterpieces of Korean Ceramics from the Museum of Oriental Ceramics, Osaka" imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York City, from on or about January 25, to on or about June 4, 2000, is in the national interest. Public notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619-6981). The address is U.S. Department of State, SA-44; 301 4th Street, SW, Room 700, Washington, D.C. 20547-0001.