# United States Court of Appeals
## For the Second Circuit

AUGUST TERM, 2020

Argued: August 18, 2020
Decided: March 24, 2021

Docket No. 20-315

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LISSETTE VEGA-RUIZ,
*Plaintiff-Appellant,*

— v. —

NORTHWELL HEALTH, (FORMERLY NORTH SHORE-LONG ISLAND JEWISH HEALTH SYSTEM), LONG ISLAND JEWISH VALLEY STREAM, LONG ISLAND JEWISH MEDICAL CENTER,

*Defendants-Appellees.*

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Before: NEWMAN and POOLER, *Circuit Judges.*[1]

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Plaintiff-appellant Lissette Vega-Ruiz appeals from a judgment of the United States District Court for the Eastern District of New York (Hurley, *J.*) entered on January 14, 2020 granting defendants-appellees' Rule 12(b)(6) motion

[1] Circuit Judge Peter W. Hall, originally a member of the panel, died before the filing of this opinion; the appeal is being decided by the remaining members of the panel, who are in agreement. *See* 2d Cir. IOP E(b).

to dismiss based on plaintiff's failure to timely file her complaint. We hold that Vega-Ruiz's disability discrimination claim arises under the Affordable Care Act for the purposes of 28 U.S.C. § 1658(a), which grants a four-year catchall statute of limitations period for all Acts of Congress enacted after December 1, 1990, and thus the district court erred in applying a three-year statute of limitations period. Vega-Ruiz's claim was timely. Accordingly, we **VACATE** and **REMAND**.

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ANDREW ROZYNSKI, Eisenberg & Baum, LLP, New York, NY, *for Plaintiff-Appellant*.

DANIEL J. LAROSE, Collazo & Keil LLP (John P. Keil, *on the brief*), New York, NY, *for Defendants-Appellees*.

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Per Curiam:

Plaintiff-appellant Lissette Vega-Ruiz appeals from a judgment of the United States District Court for the Eastern District of New York (Hurley, *J.*) entered on January 14, 2020, granting defendants-appellees' Federal Rule of Civil Procedure 12(b)(6) motion to dismiss on statute of limitations grounds. In this appeal, we decide whether Vega-Ruiz's disability discrimination claim arises under the Patient Protection and Affordable Care Act ("ACA"), Pub. L. 111–148, 124 Stat 119 (2010), for the purposes of 28 U.S.C. § 1658(a), which provides a four-year catchall statute of limitations period for all Acts of Congress enacted after December 1, 1990. If her claim arises under the ACA, the district court erred in its dismissal. If, however, her claim arises under the Rehabilitation Act, Pub. L. No.

93–112, 87 Stat. 355 (1973), a three-year statute of limitations period applies, and the district court did not err in dismissing her claim. For the reasons described below, we hold that Vega-Ruiz's claim arose under the ACA and therefore was timely.

## BACKGROUND

Vega-Ruiz is "profoundly deaf," limiting her English proficiency and her ability to communicate by reading lips. App'x 6. Vega-Ruiz communicates primarily through American Sign Language ("ASL"). On October 13, 2015, Vega-Ruiz accompanied her brother to Long Island Jewish Valley Stream, a facility operated by Northwell Health (collectively, "Northwell"), as his healthcare proxy for a scheduled surgery. During her brother's visit, Vega-Ruiz requested an ASL interpreter in order to fulfill her duties as a proxy. Instead, Northwell provided a Spanish-speaking language interpreter who communicated to Vega-Ruiz through written notes and lip reading.

Three years and three months later, on January 28, 2019, Vega-Ruiz filed a complaint against defendants alleging disability discrimination under the ACA, specifically 42 U.S.C. § 18116(a). On January 14, 2020, the district court dismissed the case for failure to state a claim, concluding that Vega-Ruiz's claim was

untimely. The district court reasoned, "though the complaint formally alleges a violation of the ACA, Plaintiff's claim is made possible by the Rehabilitation Act." *Vega-Ruiz v. Northwell Health*, 19-cv-0537 (DRH) (AYS), 2020 WL 207949, at *3 (Jan. 14, 2020). The district court concluded that the claim was "in effect, a Rehabilitation Act claim" to which New York's three-year statute of limitations period for personal injury actions applied—a period that expired before Vega-Ruiz's filing. *Id*. at *4.

## DISCUSSION

Vega-Ruiz argues that our inquiry should rely solely on the statutory text of both the ACA and Section 1658 because: (1) she raised a claim under the ACA; and (2) the ACA was enacted after December 1, 1990 and does not include a statute of limitations period, thus triggering § 1658's four-year catchall statute of limitations period. In contrast, Northwell argues that, because Vega-Ruiz's claim relies on a portion of the ACA that borrows enforcement mechanisms from the Rehabilitation Act, it is not one "arising under" a post-1990 statute—rendering § 1658's four-year limitations period inapt. Appellee Br. 7, 11-12.

Before Congress' enactment of Section 1658, if a federal statute lacked a limitations period, federal courts looked to the "most appropriate or analogous

state statute of limitations." *Morse v. Univ. of Vermont*, 973 F.2d 122, 125 (2d Cir. 1992) (citing *Goodman v. Lukens Steel Co.*, 482 U.S. 656, 660 (1987)). The Rehabilitation Act lacks an express statute of limitations; courts thus apply the limitations period of a state's personal-injury laws. *Id.* at 127. In New York, this period is three years. *Bates v. Long Island R.R. Co.*, 997 F.2d 1028, 1037 (2d Cir. 1993).

In 1990, Congress enacted Section 1658 to simplify the previously arduous task of determining which limitations period to apply to an "'Act of Congress'" that did not contain a statute of limitations.[2] *Jones v. R.R. Donnelly & Sons Co.*, 541 U.S. 369, 379–82 (2004) (quoting 28 U.S.C. § 1658(a)). With Section 1658, Congress created a "uniform federal statute of limitations" that applies when a federal statute fails to set its own limitations period. *Id.* at 380. Section 1658 provides a four-year catchall limitations period for claims arising under "Acts of Congress" in effect after December 1, 1990 that do not specify a statute of limitations. *See* 28 U.S.C. § 1658(a) ("Except as otherwise provided by law, a civil action arising under

[2] The practice of borrowing state statutes of limitations created "a number of practical problems," including: "It obligates judges and lawyers to determine the most analogous state law claim; it imposes uncertainty on litigants; reliance on varying state laws results in undesirable variance among the federal courts and disrupts the development of federal doctrine on the suspension of limitation periods." H.R. Rep. No. 101–734, p. 24 (1990) (internal quotation marks omitted).

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