SUPREME COURT OF THE UNITED STATES

No. 97–1943

KAREN SUTTON AND KIMBERLY HINTON, PETITIONERS *v.* UNITED AIR LINES, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

[June 22, 1999]

JUSTICE GINSBURG, concurring.

I agree that 42 U. S. C. §12102(2)(A) does not reach the legions of people with correctable disabilities. The strongest clues to Congress' perception of the domain of the Americans with Disabilities Act (ADA), as I see it, are legislative findings that "some 43,000,000 Americans have one or more physical or mental disabilities," §12101(a)(1), and that "individuals with disabilities are a discrete and insular minority," persons "subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society," §12101(a)(7). These declarations are inconsistent with the enormously embracing definition of disability petitioners urge. As the Court demonstrates, see *ante*, at 11–14, the inclusion of correctable disabilities within the ADA's domain would extend the Act's coverage to far more than 43 million people. And persons whose uncorrected eyesight is poor, or who rely on daily medication for their well-being, can be found in every social and economic class; they do not cluster among the politically powerless, nor do they coalesce as historical victims of discrimination. In short, in no sensible way can one rank the large numbers of diverse individuals with corrected disabilities as a "discrete and insular minority." I do not mean to suggest that any of the constitutional presumptions or doctrines that may

apply to "discrete and insular" minorities in other contexts are relevant here; there is no constitutional dimension to this case. Congress' use of the phrase, however, is a telling indication of its intent to restrict the ADA's coverage to a confined, and historically disadvantaged, class.