riam). We are therefore directing our Clerk to send Mason a copy of his counsel's response, and he will have the usual opportunity to respond pursuant to 7th Cir. R. 51. For the sake of judicial economy, the appeal will then be submitted to this motions panel.

It should go without saying that when the government moves to dismiss a criminal appeal, the appellant's lawyer will be entitled to any extensions of time for responding that he may need in order to be able to satisfy the obligations imposed by *Anders*.

Robert TOCKES, Plaintiff–Appellant,

v.

AIR–LAND TRANSPORT SERVICES, INC., Defendant–Appellee.

No. 03–1794.

United States Court of Appeals, Seventh Circuit.

Argued Aug. 6, 2003.

Decided Sept. 9, 2003.

Employee, a truck driver with hand injury who was fired for using only one hand in fastening load to truckbed in violation of company safety rules, sued former employer for disability discrimination under Americans with Disabilities Act (ADA). The United States District Court for the Central District of Illinois, Joe Billy McDade, Chief Judge, dismissed suit on summary judgment. Employee appealed. The Court of Appeals, Posner, Circuit Judge, held that employer did not regard employee as disabled within meaning of ADA.

Affirmed.

1. Civil Rights ⇐1019(5)

ADA's "regarded as" disabled provision penalizes false beliefs about disability in effort to dispel them, on theory that such beliefs work to detriment of truly disabled. Americans with Disabilities Act of 1990, § 3(2)(C), 42 U.S.C.A. § 12102(2)(C).

2. Civil Rights ⇐1218(6)

Truck driver who had been awarded 20 percent disability pension as result of hand injury sustained while in Army and was fired for using only one hand in fastening load to truckbed in violation of company safety rules was not regarded as disabled under ADA, absent evidence his employer harbored erroneous belief he was disabled within meaning of that statute; had employer thought he was disabled, it would not have hired him to drive flatbed truck, at least without altering controls so he would not have to operate manual gearshift with his damaged right hand. Americans with Disabilities Act of 1990, § 3(2)(C), 42 U.S.C.A. § 12102(2)(C).

3. Civil Rights ⇐1218(6)

Unless employer mistakenly believes that employee has disability grave enough to be so classified under ADA, employer's acting on mistaken belief does not violate statute. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C.A. § 12101 et seq.

Christopher Henson (Argued), Mustain, Lindstrom & Henson, Galesburg, IL, for Plaintiff–Appellant.

Leonard W. Sachs, Tracy C. Litzinger (Argued), Howard & Howard, Peoria, IL, for Defendant–Appellee.

Before BAUER, POSNER, and KANNE, Circuit Judges.

POSNER, Circuit Judge.

Robert Tockes' suit for disability discrimination by his former employer was dismissed on summary judgment. In 1988 Tockes, who was then in the Army, had injured his right hand. The nature of the injury is unclear. The only description comes from Tockes, who describes it as "a crushing injury" when his hand was caught between two vehicles, resulting in "permanent restrictions" on the use of his hand. He does not say what those restrictions are, but the injury was serious enough to induce the Army to award him a 20 percent disability pension. The injury clearly was not disabling within the meaning of the Americans with Disabilities Act, however, as it did not prevent him from working at jobs that require two hands, such as driving a truck that has not been adapted for a disabled person. And indeed he was hired by the defendant as a flatbed-truck driver in 2001 after informing the defendant of his injury and being put through a full road test and physical examination. One month later he was fired, after the defendant discovered that he had used only one hand in fastening a load to the bed of the truck, in violation of the company's safety rules; it is extremely dangerous to fasten a load on a flatbed truck insecurely. Oddly, there is no indication whether it was Tockes' "good," his left, hand that he was using to fasten the load.

[1, 2] He contends, and for purposes of the appeal we accept, that when he was fired the defendant told him the following three things: he was being fired because of his disability, he was crippled, and the company was at fault for having hired a handicapped person. He argues that these statements show that the company violated the provision of the ADA that creates a remedy for a worker who suffers an adverse personnel action because, though he is not disabled within the meaning of the Act, his employer thinks he is. 42 U.S.C. § 12102(2)(C); *Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 489–90, 119 S.Ct. 2139, 144 L.Ed.2d 450 (1999); *Dyke v. O'Neal Steel, Inc.*, 327 F.3d 628, 632–33 (7th Cir.2003). The provision penalizes false beliefs about disability in an effort to dispel them, on the theory that such beliefs work to the detriment of the (truly) disabled. *Sutton v. United Air Lines, Inc., supra*, 527 U.S. at 489–90; *Hoffman v. Caterpillar, Inc.*, 256 F.3d 568, 573 (7th Cir.2001). What defeats Tockes' suit is that there is no evidence that his employer harbored the erroneous belief that he was disabled *within the meaning of the Act.* (Obviously it knew he had a disability.) For one thing, had it thought that, it would have been unlikely to hire him to drive a flatbed truck, at least without altering the controls so that he would not have to operate the manual gearshift with his damaged right hand. A "false belief" case is more plausible when a worker who was fine when he was hired experiences some illness or injury that his employer mistakenly considers disabling.

[3] It is true that if Tockes is believed, the defendant called him "crippled" and "disabled" and "handicapped," but all are words with a range of meanings, and do not without more connote a belief that the individual is under the protection of the ADA. The Army thought Tockes 20 percent disabled; obviously this does not mean that it thought him so far disabled as to fall within the restrictive meaning that the ADA assigns to the term. To be disabled within that meaning, Tockes would have had to be unable to drive without some accommodation to his disability. Unless the employer mistakenly believes that an employee has a disability grave enough to be so classified under the ADA, the employer's acting on the mistaken belief does not violate the statute. *Wright v. Illinois Dep't of Corrections,* 204 F.3d 727,

731–32 (7th Cir.2000); *Bailey v. Georgia–Pacific Corp.,* 306 F.3d 1162, 1169–70 (1st Cir.2002).

Allowing this suit to go forward would merely discourage employers from giving a chance for employment to workers who have some degree of disability. Loading and driving a flatbed truck is strenuous work, and so a partially disabled person would be bound to have an above-average probability of failing at it. If the probability materializes, as it may or may not have done in this case (remember that we don't know which hand Tockes used in fastening the load), and the company blames both itself and the partial disability for the failure, there is no reason to ascribe a discriminatory motive to the employer.

AFFIRMED.

Tia J. HORTON, Plaintiff,

and

Karen Brooks, Proposed Intervenor, Appellant,

v.

JACKSON COUNTY BOARD OF COUNTY COMMISSIONERS, et al., Defendants–Appellees.

No. 03–1074.

United States Court of Appeals, Seventh Circuit.

Argued Aug. 6, 2003.

Decided Sept. 10, 2003.

Terminated county employee brought Title VII retaliation action against county. Subsequently employee was terminated from second county position and fellow employee was terminated at same time, and both filed untimely Equal Employment Opportunity Commission (EEOC) retaliation charges. The United States District Court for the District of Indiana, Sarah Evans Barker, J., permitted employee to amend her complaint to add second retaliation claim, but denied fellow employee's motion to intervene. On appeal, the Court of Appeals, Posner, Circuit Judge, held that "single-filing" exception to Title VII administrative exhaustion requirement did not apply so as to permit intervention, since fellow employee's retaliation claim was based on different conduct from that forming basis of pending action.

Affirmed.

1. Civil Rights ⚿1516

For purposes of Title VII administrative exhaustion requirement, retaliation for complaining to Equal Employment Opportunity Commission (EEOC) need not be charged separately from discrimination that gave rise to complaint. Civil Rights Act of 1964, § 706(d), as amended, 42 U.S.C.A. § 2000e–5(e).

2. Civil Rights ⚿1517

"Single-filing" or "piggybacking" doctrine is exception to rule that timely administrative charge is prerequisite to Title VII suit, and allows intervention by employee with claim arising out of same or similar discriminatory conduct, committed in same period, as claim in suit in which he seeks to intervene, despite failure to file timely administrative charge. Civil Rights Act of 1964, § 706(d), as amended, 42 U.S.C.A. § 2000e–5(e).

3. Civil Rights ⚿1515

Purpose of Title VII administrative exhaustion requirement is to place employer on notice of impending suit that he can try to head off by negotiating with complainant, utilizing conciliation services offered by Equal Employment Opportunity Commission (EEOC). Civil Rights Act of