

2008 U.S. SUPREME COURT DECISIONS IMPACTING THE FIELD OF LABOR AND EMPLOYMENT LAW

I. ADEA

1. Meacham v. Knolls, 128 S.Ct. 2395

Case: Twenty-eight former employees of government contractor laid off as result of involuntary reduction in force brought suit alleging violations of Age Discrimination in Employment Act (ADEA) and New York Human Rights Law. Following judgment on jury verdicts in employees' favor, employers filed post-trial motions, including motion for judgment as matter of law (JMOL). The United States District Court for the Northern District of New York, David Homer, United States Magistrate Judge, 185 F.Supp.2d 193, denied employers' motions. Appeal was taken. The United States Court of Appeals for the Second Circuit, 381 F.3d 56, affirmed. On petition for writ of certiorari, the Supreme Court, 544 U.S. 957, 125 S.Ct. 1731, 161 L.Ed.2d 596, vacated and remanded. On remand, the Court of Appeals, 461 F.3d 134, vacated and remanded with instructions to enter judgment as a matter of law for employer. Certiorari was granted.

Holding: The Supreme Court, Justice Souter, held that exemption from liability for disparate impact claim under ADEA for employer actions based on reasonable factors other than age (RFOA) creates an affirmative defense, on which employer bears both the burden of production and burden of persuasion.

SOUTER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, KENNEDY, GINSBURG, and ALITO, JJ., joined, and in which THOMAS, J., joined as to Parts I and II-A. SCALIA, J., filed an opinion concurring in the judgment. THOMAS, J., filed an opinion concurring in part and dissenting in part. BREYER, J., took no part in the consideration or decision of the case.

2. Kentucky v. EEOC, 128 S.Ct. 2361

Case: Equal Employment Opportunity Commission (EEOC) brought public enforcement action against county sheriff's department and state retirement system, alleging that system's disability retirement benefits plan for hazardous-occupation employees violated Age Discrimination in Employment Act (ADEA). The United States District Court for the Western District of Kentucky, Jennifer B. Coffman, J., granted summary judgment in favor of defendants. The United States Court of Appeals for the Sixth Circuit affirmed, 424 F.3d 467, granted rehearing, 16 Fed.Appx. 443, and, on rehearing en banc, reversed and remanded, 467 F.3d 571. Certiorari was granted.

Holding: The United States Supreme Court, Justice Breyer, held that state's disability retirement plan did not violate ADEA, based on its non-age-related purpose and other

factors.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, SOUTER, and THOMAS, JJ., joined. KENNEDY, J., filed a dissenting opinion, in which SCALIA, GINSBURG, and ALITO, JJ., joined.

3. Federal Express v. Holowecki, 128 S.Ct. 1147

Case: Employees over the age of 40 who were or had been employed as couriers by mail and pickup delivery service brought action against employer alleging that two programs which tied couriers' compensation and continued employment to certain performance benchmarks violated Age Discrimination in Employment Act (ADEA). The United States District Court for the Southern District of New York, Lawrence M. McKenna, J., 2002 WL 31260266, dismissed action on ground that employee had not filed charge with Equal Employment Opportunity Commission (EEOC) at least 60 days before filing suit. Appeal was taken. The Court of Appeals for the Second Circuit, Rosemary S. Pooler, J., 440 F.3d 558, reversed in part, vacated in part, and remanded. Certiorari was granted.

Holdings: The Supreme Court, Justice Kennedy, held that:

(1) in addition to information required by implementing regulations, i.e., allegation of age discrimination and name of charged party, if filing was to be deemed a "charge" under the ADEA, it had to be reasonably construed as request for EEOC to take remedial action to protect employee's rights or otherwise settle dispute between employer and employee; abrogating Casavantes v. California State Univ., Sacramento, 732 F.2d 1441, and
(2) EEOC's determination that "Intake Questionnaire" and detailed affidavit was a "charge" was reasonable exercise of its authority to apply its own regulations and procedures in course of routine administration of ADEA.

KENNEDY, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, SOUTER, GINSBURG, BREYER, and ALITO, JJ., joined. THOMAS, J., filed a dissenting opinion, in which SCALIA, J., joined.

4. Sprint v. Mendelsohn, 128 S.Ct. 1140

Case: Former employee, discharged at age 51, brought action against former employer, alleging age discrimination in violation of the Age Discrimination in Employment Act (ADEA). The United States District Court for the District of Kansas, Kathryn H. Vratil, J., entered judgment, upon jury verdict, in favor of employer. Employee appealed. The Tenth Circuit Court of Appeals, Baldock, Circuit Judge, 466 F.3d 1223, reversed and remanded for new trial. Certiorari was granted.

Holding: The Supreme Court, Justice Thomas, held that, on appeal from district court's decision to exclude, in Age Discrimination in Employment Act (ADEA) action brought

by individual employee, evidence of allegedly discriminatory acts of other supervisors not involved in actions of which plaintiff-employee complained, Court of Appeals should not have assumed that district court had improperly applied per se rule against admission of such evidence, and should not have engaged in its own balancing of probative value of such evidence against its possible prejudicial effect, but should have remanded to district court for clarification and to perform this balancing in first instance, explicitly and on record.

THOMAS, J., delivered the opinion for a unanimous Court.

II. ERISA

1. LaRue v. DeWolff, 128 S.Ct. 1020

Case: Participant in 401(k) plan sued employer/administrator under Employee Retirement Income Security Act (ERISA), alleging that employer had failed to follow participant's directions for making changes to investments in his plan account, resulting in losses. The United States District Court for the District of South Carolina, David C. Norton, J., 2005 WL 5568764 granted employer's motion for judgment on the pleadings, and participant appealed. The United States Court of Appeals for the Fourth Circuit, 450 F.3d 570, affirmed. Certiorari was granted.

Holding: The Supreme Court, Justice Stevens, held that participant's claim was cognizable under ERISA provision authorizing suits to enforce fiduciary obligations.

STEVENS, J., delivered the opinion of the Court, in which SOUTER, GINSBURG, BREYER, and ALITO, JJ., joined. ROBERTS, C.J., filed an opinion *1022 concurring in part and concurring in the judgment, in which KENNEDY, J., joined. THOMAS, J., filed an opinion concurring in the judgment, in which SCALIA, J., joined.

2. Met Life v. Glenn, 128 S.Ct. 2343

Case: Participant brought suit under Employee Retirement Income Security Act (ERISA) to contest plan administrator's termination of long-term disability benefits on ground that she was no longer totally disabled. The United States District Court for the Southern District of Ohio, 2005 WL 1364625, entered judgment for plan, and participant appealed. The Sixth Circuit Court of Appeals reversed and remanded, 461 F.3d 660, and plan administrator sought certiorari which was granted.

Holding: The Supreme Court, Justice Breyer, held that a reviewing court should consider the conflict of interest arising from the dual role of an entity as an ERISA plan administrator and payer of plan benefits as a factor in determining whether the plan administrator has abused its discretion in denying benefits, with the significance of the

factor depending upon the circumstances of the particular case.

BREYER, J., delivered the opinion of the Court, in which STEVENS, SOUTER, GINSBURG, and ALITO, JJ., joined, and in which ROBERTS, C.J., joined as to all *2346 but Part IV. ROBERTS, C.J., filed an opinion concurring in part and concurring in the judgment. KENNEDY, J., filed an opinion concurring in part and dissenting in part. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined.

III. LABOR

1. Chamber of Commerce v. California, 128 S.Ct. 2408

Case: Employer associations whose members did business with California brought suit, challenged constitutionality of California statutes prohibiting grant recipients and private employers receiving more than \$10,000 in state program funds in any year from using such funds "to assist, promote, or deter union organizing." The United States District Court for the Central District of California, Gary L. Taylor, J., 225 F.Supp.2d 1199, granted partial summary judgment for associations. State appealed. The United States Court of Appeals for the Ninth Circuit, 422 F.3d 973, initially affirmed, but after rehearing en banc, the Court, 463 F.3d 1076, reversed. Certiorari was granted.

Holding: The Supreme Court, Justice Stevens, held that statutes were preempted by National Labor Relations Act (NLRA).

STEVENS, J., delivered the opinion of the Court, in which ROBERTS, C.J., and SCALIA, KENNEDY, SOUTER, THOMAS, and ALITO, JJ., joined. BREYER, J., filed a dissenting opinion, in which GINSBURG, J., joined.

IV. EQUAL PROTECTION

1. Engquist v. Oregon, 128 S.Ct. 2146

Case: Former state employee, who had been effectively laid off during reorganization of employing agency, sued agency and individual employees, asserting various federal civil rights claims including "class of one" equal protection claim, which alleged that she had been fired for arbitrary, vindictive and malicious reasons. The United States District Court for the District of Oregon, Donald C. Ashmanskas, United States Magistrate Judge, entered judgment on jury verdict for employee on class-of-one claim. The United States Court of Appeals for the Ninth Circuit, 478 F.3d 985, reversed. Certiorari was granted.

Holding: The United States Supreme Court, Chief Justice Roberts, held that class-of-

one equal protection claim is not cognizable in context of public employment.

ROBERTS, C.J., delivered the opinion of the Court, in which SCALIA, KENNEDY, THOMAS, BREYER, and ALITO, JJ., joined. STEVENS, J., filed a dissenting opinion, in which SOUTER and GINSBURG, JJ., joined.

V. RETALIATION

1. Gomez-Perez v. Potter, USPS, 128 S.Ct. 1931

Case: Employee of United States Postal Service (USPS) sued Postal Service and Postmaster General, alleging that she had been retaliated against for filing administrative age discrimination complaint, contrary to the Age Discrimination in Employment Act (ADEA). The United States District Court for the District of Puerto Rico, 2006 WL 488060, Daniel R. Dominguez, J., granted summary judgment in favor of defendants on the basis of sovereign immunity. Employee appealed. The Court of Appeals for the First Circuit, Torruella, Circuit Judge, 476 F.3d 54, affirmed on alternative grounds. Certiorari was granted.

Holding: The United States Supreme Court, Justice Alito, held that a federal employee who is a victim of retaliation due to the filing of a complaint of age discrimination may assert a claim under the federal-sector provision of the ADEA.

ALITO, J., delivered the opinion of the Court, in which STEVENS, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. ROBERTS, C.J., filed a dissenting opinion, in which SCALIA and THOMAS, JJ., joined as to all but Part I. THOMAS, J., filed a dissenting opinion, in which SCALIA, J., joined.

2. CBOCS West v. Humphries, 128 S.Ct. 1951

Case: Terminated African-American employee sued former employer, alleging race discrimination and retaliation, and asserting claims under Title VII and § 1981. The United States District Court for the Northern District of Illinois, Charles P. Kocoras, Senior District Judge, dismissed Title VII claims on procedural grounds, and granted summary judgment for employer on § 1981 claims. The United States Court of Appeals for the Seventh Circuit, 474 F.3d 387, reversed and remanded in part, ruling that employee's retaliation claim was cognizable under § 1981. Certiorari was granted.

Holdings: The United States Supreme Court, Justice Breyer, held that:

- (1) section 1981 encompasses retaliation claims;
- (2) cognizable § 1981 retaliation claims include claim by individual who suffers retaliation for having tried to help another; and
- (3) cognizable § 1981 retaliation claims include employment-related ones.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, KENNEDY, SOUTER, GINSBURG, and ALITO, JJ., joined. THOMAS, J., filed a dissenting opinion, in which SCALIA, J., joined.

In the Bullpen for 2009

RETALIATION

Crawford v. Nashville

LABOR

Locke v. Karass

Ysursa v. Pocatello

Penn Plaza v. Pyett

PREGNANCY

AT&T v. Hulteen