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LEGAL ALERT

Supreme Court Plants Roadblock For Federal Employees Bringing Employment Claims

Representing a victory for the federal government, the U. S. Supreme Court held on June 11, 2012, that federal employees do not have a right to challenge their terminations from employment in federal district court on constitutional grounds. The ruling reinforces the statutory scheme of the Civil Service Reform Act, which establishes the Merit Systems Protections Board (MSPB), an administrative agency governing federal employment disputes. *Elgin v. Dept. of Treasury*.

The decision is significant because it reinforces the exclusivity of the MSPB as the exclusive remedy for employee challenges to terminations, subject to appellate review in federal court. Moreover, it is a significant departure from the previous legal principle that administrative agencies do not have the authority to rule on the constitutionality of laws passed by Congress.

Background

Michael Elgin, as well as a number of other federal employees, were fired from the IRS for not registering for the Selective Service as required by federal law. The Civil Service Reform Act (CSRA), which governs employment of those in civil service, provided that these civil servants were not eligible for their jobs because they were not registered.

Following their terminations, the former employees challenged the actions before the Merit Systems Protection Board, an administrative agency designed to address employment claims brought under the CSRA. All challenged their terminations on the grounds that the statute which disqualified them from employment is unconstitutional. The MSPB dismissed the appeal, holding that an administrative agency did not have the power to decide that a law passed by Congress is unconstitutional.

Following the MSPB's dismissal, Elgin next brought an action challenging the constitutionality of the law in federal district court. Opposing the former employees' action, the federal government argued that the MSPB provides the exclusive remedy to challenge their terminations, noting that they could appeal any administrative decision in federal court. Disagreeing with the federal government, the district court held that it did have jurisdiction to hear the complaints and ruled on the constitutionality of the law. That ruling was short lived, however, as the U.S. Court of Appeals for the 1st Circuit came to the opposite conclusion, holding that the district court did not have jurisdiction to make any ruling.

The former employees then asked for Supreme Court review, arguing that the federal district court has authority to hear constitutional challenges to the statute. While the CSRA outlines a statutory scheme to



govern federal employment issues, federal courts retain authority to review statutes for constitutional violations. Ultimately, the issue in this case was whether the CSRA prohibits an employee from going to a federal district court to challenge the constitutionality of the law which formed the basis of his termination. Were the employees limited to pursuing their constitutional challenge before the MSPB, or could they challenge it directly in federal district court?

The Supreme Court's Decision

Justice Clarence Thomas, writing for the majority in a 6-3 decision, resolved this question in favor of the federal government, holding that federal employees are limited to the remedy provided by the CSRA – challenges to adverse employment actions on any grounds, including constitutionality of the statute underpinning their terminations from employment, in front of the MSPB.

The CSRA, the Court notes, embodies a comprehensive scheme for review of personnel actions, including termination, suspension greater than 14 days, reductions in grade or pay, and furloughs less than 30 days. The MSPB, as the statutory creature designed to deal with federal employee disputes, has the authority to order reinstatement, back pay and attorneys' fees. Moreover, employees have the right to further review in the Court of Appeals for the Federal Circuit, and the MSPB's action may be set aside if it is arbitrary and capricious.

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The “painstaking detail” of the legislative schematic for review of personnel decisions, the Court holds, denotes that Congress intended to bar a wholly separate review in district court. Looking to the statute’s plain language, Justice Thomas noted that the CSRA expressly provides for an exemption to its preclusion of district court jurisdiction if an employee asserts that discrimination motivated an adverse employment action. Likewise, if Congress had intended for additional exceptions to the exclusivity of its remedial scheme, further exceptions would have been included.

Because no additional exceptions appear in the statute, Elgin and his fellow employees could not sidestep a legislative process put in motion to streamline appellate review and prevent potential simultaneous review of an administrative action in the MSPB and federal district court. The Court’s holding makes clear that the former employees were not entitled to have the federal district court hear their constitutional claims in contravention to the statutorily-established CSRA procedure.

What Does This Mean For Employers?

The ruling is significant because it holds that an administrative agency may decide whether an act passed by Congress violates the U.S. Constitution. Presumably it will apply to other administrative agencies, as well. While the ruling is important as it applies to constitutional challenges to the underlying reason for termination from employment, its reach may be narrow for two reasons: 1) it applies only to federal civil service employees; and 2) it is likely to encompass only a small overall percentage of terminations in the select group of federal civil service employee terminations.

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The foregoing provides information about a specific Supreme Court decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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