

Supreme Court: Public Union Can't Make Nonmembers Pay Union Fees

By Administrator

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WASHINGTON (AP) — The Supreme Court dealt a blow to public sector unions Monday, ruling that thousands of home health care workers in Illinois cannot be required to pay fees that help cover the union's costs of collective bargaining.

In a 5-4 split along ideological lines, the justices said the practice violates the First Amendment rights of nonmembers who disagree with the positions that unions take. The ruling is a setback for labor unions that have bolstered their ranks — and bank accounts — in Illinois and other states by signing up hundreds of thousands of in-home care workers. It could lead to an exodus of members who will have little incentive to pay dues if nonmembers don't have to share the burden of union costs.

But the ruling was limited to this particular segment of workers and it stopped short of overturning decades of practice that has generally allowed public sector unions of teachers, firefighters and other government workers to pass through their representation costs to nonmembers.

Writing for the court, Justice Samuel Alito said home care workers “are different from full-fledged public employees” because they work primarily for their disabled or elderly customers and do not have most of the rights and benefits of state employees. The ruling does not affect private sector workers.

The case involves about 26,000 Illinois workers who provide home care for disabled people and are paid with Medicaid funds administered by the state. In 2003, the state passed a measure deeming the workers state employees eligible for collective bargaining.

A majority of the workers then selected the Service Employees International Union to negotiate with the state to increase wages, improve health benefits and set up training programs. Those workers who chose not to join the union had to pay proportional “fair share” fees to cover collective bargaining and other administration costs.

A group of workers led by Pamela Harris — a home health aide who cares for her disabled son at home — filed a lawsuit arguing the fees violate the First Amendment. Backed by the National Right to Work Legal Defense Foundation, the workers said it wasn't fair to make someone pay fees to a group that takes positions the fee-payer disagrees with.

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The workers argue they are not government employees capable of being unionized in the traditional sense. They are different, they say, because they work in people's homes, not on government property, and are not supervised by other state employees. And they say the union is not merely seeking higher wages, but making a political push for expansion of Medicaid payments.

Alito agreed, saying "it is impossible to argue that the level of Medicaid funding (or, for that matter, state spending for employee benefits in general) is not a matter of great public concern."

The workers had urged the justices to go even farther and overturn a 1977 Supreme Court decision which held that public employees who choose not to join a union can still be required to pay representation fees, as long as those fees don't go toward political purposes. About half of the states require these fair-share fees.

Alito said the court was not overturning that case, *Abood v. Detroit Board of Education*, which is confined "to full-fledged state employees." But he said that extending *Abood* to include "partial-public employees, quasi-public employees, or simply private employees would invite problems."

The court's limited ruling means public unions avoided a potentially devastating blow that could have meant a major drop in public employee membership ranks.

Justice Elena Kagan wrote the dissent for the four liberal justices. Kagan said the majority's decision to leave the older case in place is "cause for satisfaction, though hardly applause."

Kagan agreed with the state's arguments that home care workers should be treated the same as other public workers because Illinois sets their salaries, resolves disputes over pay, conducts performance reviews and enforces the terms of employment contracts.

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“Our decisions have long afforded government entities broad latitude to manage their workforces, even when that affects speech they could not regulate in other contexts,” Kagan said.

A federal district court and the 7th U.S. Circuit Court of Appeals had rejected the lawsuit, citing the high court's precedent.

Nine other states have allowed home care workers to join unions: California, Connecticut, Maryland, Massachusetts, Minnesota, Missouri, Oregon, Vermont and Washington.