



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for July 11, 2014

The U.S. Supreme Court Issued a Decision in the Following Case:

Petitioner: Pamela J. Harris, *et al.*

Respondent: Pat Quinn, Governor of Illinois, *et al.*

Tribunal: U.S. Supreme Court

Case Number: [11-681](#)

Decision Below: [656 F.3d 692 \(7th Cir. 2011\)](#)

Issuance Date: June 30, 2014

Appeal Type: Constitutional Law

Action Type: First Amendment Rights for Public Sector Employees

Right of Partial-Public Employees to Refuse to Pay Union Fees

This case arose from a refusal by certain “Personal Assistants” (PA) in the Illinois Home Services Program to pay Service Employees International Union Healthcare Illinois & Indiana (SEIU-HII) fees. The PAs’ employment conditions were primarily controlled by their customers, who were private citizens. They were designated public employees only by statute, and solely to allow them to join a labor union and engage in collective bargaining under the Illinois Public Labor Relations Act (PLRA). Under the act, the PAs were required to pay SEIU-HII an agency-fee for the cost of certain activities, including those tied to the collective-bargaining process. A group of PAs filed a class action lawsuit in District Court, claiming that the PLRA’s agency-fee provision violated their First Amendment rights. The District Court dismissed their claim, and the Seventh Circuit affirmed, holding that the PAs were state employees within the meaning of [Abood v. Detroit Bd. Of Ed.](#)

The Supreme Court addressed the following issues: (1) May a state, consistent with the First and Fourteenth Amendments to the United States

Constitution, compel personal care providers to accept and financially support a private organization as their exclusive representative to petition the State for greater reimbursements from its Medicaid programs; and (2) Did the lower court err in holding that the claims of providers in the Home Based Support Services Program are not ripe for judicial review.

Holding: The Court reversed the judgment of the Seventh Circuit.

1. In a 39 page Opinion, the Court (Justice Alito writing) held that the First Amendment prohibited the collection of an agency fee from the PAs who did not want to join or support the union. The Court declined to extend *Abood* to the PAs, because the PAs' employment circumstances were very different from that of typical public employees, and instead analyzed the claim under the First Amendment. Under this analysis, the Court found that the Petitioners' interests, including labor peace and the welfare of the PAs, were not sufficiently compelling to justify violation of the PAs' First Amendment rights.

2. The Court called into question the foundations of the Court's prior holding in *Abood*. While the Court did not specifically overrule *Abood*, it did state that the Court's First Amendment analysis in *Abood* was "questionable... [.]"

3. Justice Kagan dissented, with Justices Ginsburg, Breyer, and Sotomayor joining. Justice Kagan disagreed with the majority's analysis of *Abood*, and believed the holdings in that case should have been extended to the PAs.

- **The MSPB did not issue any precedential decisions this week**
- **The U.S. Court of Appeals for the Federal Circuit did not issue any decisions this week**

