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PUBLIC UNION DEFEAT DELIVERS VICTORY FOR FREE SPEECH, SMALLER GOVERNMENT

The U.S. Supreme Court on June 27 that nonunion government employees can no longer be forced to pay fees to public sector unions. The Libertarian Party platform states, "We favor repealing any requirement that one must join or pay dues to a union as a condition of government employment." This ruling, however, makes a repeal unnecessary.

The court's 5-4 decision in Janus v. American Federation of State, County, and Municipal Employees overturned a 40-year-old precedent that had allowed unions to force even dissenting government employees to pay agency or "fair share" fees to the union.

The suit was brought by Mark Janus, an employee at the Illinois Department of Healthcare and Family Services. The court agreed with Janus's argument that his \$45 monthly fee was unconstitutional because he disagreed with the union's political advocacy that he was forced to fund.

"Compelling individuals to mouth support for views they find objectionable violates that cardinal constitutional command, and in most contexts, any such effort would be universally condemned," Justice Samuel Alito wrote in the majority opinion.

In addition to the obvious free speech issue, which served as the rationale for the court's decision, this helps limit the power of public-sector unions

to use government resources.

"When public-sector employees use union power to negotiate with politicians, both benefit in the short run from increasing pay and benefits," said Libertarian Executive Director Wes Benedict. "The employees earn more and the politicians get reelected. The cost is passed on to the taxpayer. That's why, on average, public-sector employees are paid more than private-sector employees. Eventually, this practice leads to government bankruptcy."

We favor repealing any requirement that one must join or pay dues to a union as a condition of government employment.

To be clear, the Libertarian Party has no problem with private-sector collective bargaining. If private employers agree to wages and benefits that are too expensive, their products and services will probably need to be priced too high for the company to thrive. Market forces provide a self-correcting process that is absent in government labor agreements.

"We support the right of private employers and employees to choose whether or not to bargain with each other through a labor union," the Libertarian Party platform states.

In this particular case, Janus correctly argued that the union's "behavior in bargaining does not appreciate the current fiscal crises in Illinois

and does not reflect his best interests or the interests of Illinois citizens." He said that if he had the choice, he "would not pay any fees or otherwise subsidize" the union.

The fiscal crisis is particularly acute in Illinois where pensions, mostly negotiated by unions, already eat up 25 percent of the state's budget, according to Illinois Policy Institute. AFSCME has spent more money on political activities and lobbying over the last 10 years than on representing public employees.

"It's a vicious cycle," Benedict said. "Unions extract dues and fees from employees, and have often done this against the will of employees. Unions spend the money to support politicians who approve exorbitant public employee pay and benefits. The taxpayer gets stuck with the bill. Or, if taxpayers resist, the pension promises to employees get broken when the government runs out of cash."

The Janus decision is also notable because the court rejected stare decisis — "the idea that today's Court should stand by yesterday's decisions" — a doctrine that Justice Elena Kagan's defended in her dissenting opinion.

"It's not judicial activism if the court reverses bad precedent," Benedict said. "It's the proper exercise of judicial responsibility. There's a lot of bad precedent that needs to be reversed."

Fight Against Illegal Jacksonville Law

TALLAHASSEE, FL - Liberty Counsel filed a brief in the appeal of Jacksonville, Florida residents and businesses against the city's 2017 ordinance that added "sexual orientation" and "gender identity" as "protected categories" under Jacksonville law. The lawsuit, Parsons v. City of Jacksonville, seeks to invalidate the so-called "Human Rights Ordinance" or "HRO" because its authors and sponsors illegally hid the effects of the ordinance through intentionally deceptive drafting and messaging.

In the first round of the litigation, the trial court dismissed Liberty Counsel's case against the HRO, on the theory that the plaintiffs lack legal standing to file the lawsuit because they are not injured yet or injured enough by the city's illegal act. In this new round, Liberty Counsel has appealed the dismissal, and shows in its brief to the First District Court of Appeal that any resident of Jacksonville is already injured by the city's deception and can challenge the validity of the HRO now under applicable statutes and well-settled precedent. Importantly, none of the city's filings to date have made any attempt to defend the validity of the HRO under Florida law.

Prior versions of the HRO were defeated twice in Jacksonville with help from Liberty Counsel and others. The 2017 HRO sponsors on the City Council let radical LGBT activists choose the language for the "new" HRO, and then worked together to sell the deceptive and illegal language to the public and other council members. Their false message was that the "new" HRO was somehow different in effect from the previously defeated versions.

"The city passed the ordinance illegally and is now trying to cover up the deception of the authors and sponsors with slick procedural hurdles," said Liberty Counsel's Assistant Vice President of Legal Affairs, Roger Gannam, who was a long-time Jacksonville resident before joining Liberty Counsel. "The fair and honest people of Jacksonville deserve better from their city officials."

No Jacksonville citizen or business should be forced to celebrate the same-sex relationships of others under threat of fines or loss of their businesses, and Jacksonville's women and girls should feel safe from predatory men in their own restrooms and facilities. The appellate court should correct the trial court's error and give our Jacksonville clients their day in court," said Gannam.



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