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Ledbetter v. Goodyear

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Why Elections Matter

Two decisions from the United States Supreme Court, *Ledbetter v. Goodyear* and *Long Island Care at Home v. Coke*, decided on May 29, and June 11, 2007 respectively, demonstrate that elections matter and in some cases they matter a great deal.

In each of the above cases, the Supreme Court negated the rights of working people and granted another victory to powerful corporations. In each case, those who sought protection from laws designed to aid them were turned aside. In one case the determining factor was a 5-4 majority comprised of two recent appointees to the bench and other conservative appointments from Bush, Sr. and Ronald Reagan. In the second case, the Bush administration's interpretation of the Fair Labor Standards Act led the entire court to rule against home health care workers who sought overtime and in favor of the Company that employed them.

Ledbetter v. Goodyear

In this Title VII case, Ms. Ledbetter alleged that she had been discriminated against on the basis of her gender. She maintained that her employer, Goodyear Tire & Rubber, paid her less than her male counterparts and that over the course of her career, the compounding effect was that she made significantly less than her colleagues who were men. She sought

compensation for the entire period of the discriminatory conduct. The jury awarded her back pay and damages and the company appealed. Goodyear argued that Ms. Ledbetter's claims were barred by the statute of limitations - in this case 180 days - and thus the claim should be rejected.

All statute of limitations cases turn on two pivotal questions: first, how long is the period of the limitations? Second, when did the cause of action "accrue?" The first question is easily answered: Title VII claims must be filed, by submitting a charge with the EEOC (or comparable state agency) within 180 or 300 days, depending upon the state. (New York is 300 days.) The question of "accrual" is, in effect, how the Court denied Ms. Ledbetter's claim.

Writing for the majority, recent Bush appointee Samuel Alito stated that "the time for filing a charge . . . begins when the discriminatory act occurs Because a pay decision is a 'discrete act,' it follows that the period for filing an EEOC charge begins when the act occurs." *Ledbetter*, 550 U.S. at _____. He went on to say that "a pay-setting decision is a discrete act that occurs at a particular point in time" As a consequence, even though Ms. Ledbetter was unaware that Goodyear was paying her far less from 1979 to 1998 than the men she worked beside, her claim was time-barred because the employer's admittedly discriminatory act occurred more than 180 days before she found out and filed a charge with the EEOC. Alito referred to these violations of the law as "an unfortunate event in history which has no present legal consequences." In other words, if the employer violates the law by discriminating against an individual, and the individual doesn't know about it until after the running of the statute of limitations, the company gets away with it.

At the outset of this article, it was noted that elections have consequences. The 2000 and 2004 election had a tremendous impact on the *Ledbetter* case in two ways. First, the case was decided by the barest of majorities, 5-4. Both Bush appointees, Chief Justice Roberts and

Associate Justice Alito (who wrote the opinion) sided with the employer. The second impact is, in some ways, more alarming. The Equal Employment Opportunity Commission, the federal agency entrusted with enforcing Title VII, initially supported Ms. Ledbetter. In the Court of Appeals, the EEOC confirmed that Ms. Ledbetter's interpretation of the law was correct. Once the case made it to the Supreme Court, however, politics held sway over reason. In an astonishing reversal, the EEOC switched sides and wrote a brief that aided the company.

The ramifications of this decision may not be known for decades, but it is clear that, in order to guarantee to protect your rights, the only thing to do is to file charges with the EEOC every 180 days. If you fail to preserve your rights, under this new case, you run the risk of waiving your entitlement to having a workplace free from discrimination.

Long Island Care at Home v. Coke

In this case, the Supreme Court seemed to be deciding a very small issue of administrative procedure: ordinarily, where an agency charged with the responsibility of enforcing a federal statute issues regulations designed to accomplish that goal, the courts give great deference to the regulations, unless the regulations are contrary to the statutory framework. Here, the Department of Labor is responsible for enforcing the Fair Labor Standards Act (FLSA). That law requires employers to pay non-exempt employees time-and-a-half for work performed over eight hours per day and forty hours per week. Congress specifically exempted from the statute's coverage:

[a]ny employee employed in domestic service employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves (as such terms are defined and de-limited by regulations of the Secretary of Labor . . .

29 U.S.C. §213(a)(15); Long Island Care v. Coke, 551 U.S. ____ (2007). An employee whose

job is “exempt” does not qualify for overtime payments and thus may be required to work at straight time for hours beyond eight per day or forty per week.

The DOL issued an interpretation that this statutory exemption from the overtime requirement includes those workers who are employed by a third party agency, rather than the family or household utilizing the services. 29 C.F.R. 552 §109(a). This “interpretation” runs contrary to a Regulation that restricts the exemption to those “employers” . . . “in or about a private house . . . of the person by whom he or she is employed . . .” 29 C.F.R. §552.3.

In December 2005, three years after Ms. Coke filed her suit, the DOL issued an “Advisory Memorandum” in which the Bush appointees at the Department concluded that the “interpretation”, not the “Regulation,” should govern the dispute. Wage and Hour Advisory Memorandum No. 2005 -1 (Dec. 1, 2005). On these facts, the Court’s hands were tied; they were compelled by a case called *Chevron* to adhere to the agency’s interpretation.

Elections matter

Had an administration that is not hostile towards working people been in charge of the EEOC (in Ms. Ledbetter’s case) and the DOL (in Ms. Coke’s case), it is clear that the weight of the federal government would have been on the side of the complainants, not the companies. These cases demonstrate that only by electing government officials who will stand up for working people can the rights we think we all have be vindicated. Ms. Ledbetter’s Title VII rights were clearly violated. Ms. Coke obviously worked long, hard hours. Nevertheless, because their interests have no voice in the current administration (or on the Court), they lose. These cases are an injustice to working people everywhere. Only by electing a worker-friendly administration can their rights, and the rights of working people everywhere, be vindicated. Elections matter.

