

After Arbitration, Does a District Court Have Jurisdiction to Confirm or Vacate an FAA Award?

Recent Oral Argument at the US Supreme Court Suggests an Answer

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Last week, a deeply skeptical US Supreme Court [heard oral argument](#) in *Jules v. Andre Balazs Properties*, where the court was asked to decide whether a district court that compelled a lawsuit to arbitration still has jurisdiction to confirm or vacate an award under the Federal Arbitration Act (FAA), 9 U.S.C. § 1 *et. seq.*

Based on the court's precedent and the justices' questioning during oral argument, it appears a majority of the court intends to overrule the petitioner and affirm the lower courts' decisions.

Background

This case started as an employment dispute. The petitioner worked as a security guard at a hotel until he was laid off due to the COVID-19 pandemic. In response, he sued the respondent, a part-owner of the hotel, in district court and alleged employment discrimination under both state and federal law. The district court compelled the claims to arbitration upon the respondent's request and stayed the case.

The respondent ultimately prevailed in arbitration, and in response, the petitioner sought to vacate the award in district court. His attempt to do so was rejected, and this ruling was affirmed on appeal by the Second Circuit Court of Appeals. The petitioner then filed a petition with the Supreme Court and presented the following question for review:

When federal courts exercise jurisdiction and stay cases pending arbitration, do they maintain jurisdiction over post-arbitration applications—those submitted under Federal Arbitration Act Sections 9 or 10—if they would otherwise lack jurisdiction?

Case Law, Precedent, and the Court’s Questioning Suggest the Petitioner’s Claims Will be Rejected

From the start, it was readily apparent that a bipartisan majority of the court was primed to reject the petitioner’s claims. As Justice Thomas noted at the outset: “You’re saying now that the jurisdiction of the court that you invoked is inadequate to decide this?” “Don’t you think there’s something odd about that?”

Other Justices focused on the court’s past precedent. For instance, Justice Sotomayor suggested that the question was already answered in the court’s *Smith v. Spizzirri* decision. In *Spizzirri*, a unanimous court found that when a district court finds that a lawsuit should be compelled to arbitration under the FAA, the court only has the power to stay, and not outright dismiss, the action. As Justice Sotomayor indicated:

In Spizzirri, what we said was, where a court does have proper jurisdiction over a Section 9 or 10 application in a preexisting lawsuit -- and there was, under Section 3, a preexisting federal claim, so it had proper jurisdiction -- the court that stayed the action can and should, for efficiency’s sake, adjudicate those applications as motions in the existing lawsuit. So this is a motion in an existing lawsuit -- that’s what Section 9 and 10 are -- over a claim that had jurisdiction, age discrimination. Why isn’t this just a motion to confirm that?

Conversely, the petitioner’s counsel pointed to other precedents from the court, *Badgerow v. Walters*, to support their position that the district court lacked jurisdiction to confirm the arbitrator’s award. According to petitioner’s counsel, *Badgerow* stands for the proposition that a district court does not have jurisdiction to consider a motion that “would cause the court to enter a judgment that the court doesn’t have jurisdiction to enter. . . .” The court did not appear convinced with this line of reasoning, however, as Justice Kagan noted: “. . . what *Badgerow* also said, it said something like jurisdiction to decide a case includes jurisdiction to decide a motion in a case. And isn’t that what we have here?”

The petitioner’s counsel also attempted to distinguish between cases initially involving federal question and diversity jurisdiction. According to the petitioner, once an arbitration award is issued, the arbitrator has already decided the federal question, meaning all that remains is a contractual dispute over whether the arbitrator committed fraud, exceeded his or her powers, or some other ground for vacating the award exists—contractual issues that do not implicate a district court’s subject matter jurisdiction and which should be decided by a state court instead. However, the court appeared to reject that line of reasoning as well, finding it hard to square with the language of the FAA and Congressional intent.

At the end of oral argument, it appeared the court was ready to reject the question presented and affirm the lower courts’ rulings.

What is the Significance of this Case?

Role of State Courts in FAA Enforcement

- The Supreme Court has made clear that the FAA confers no federal question jurisdiction on a district court. Rather, some independent jurisdiction must exist for a district court to hear a dispute involving the FAA. Because of this, as the Supreme Court has found, and as the petitioner advocated, state courts play a “prominent” role in enforcing the FAA.

District Courts Can Rule When Jurisdiction Exists

- However, the state courts role in FAA disputes does not mean that district courts can never decide cases or issues involving the FAA. Rather, if an “independent jurisdictional basis” exists, a district court can decide questions or issues involving the FAA. As the court previously held, this requires a district court to “look through” the arbitration request to the “underlying substantive controversy” to see if it has jurisdiction. *Vaden v. Discover Bank*, 556 U.S. 49 (2009).

Limits on “Look Through” After Arbitration

- At the same time, in *Badgerow*, the Supreme Court made clear that this “look through” analysis does not apply on the back-end, such as when a party is seeking to confirm or vacate an arbitrator’s award under §§ 9 or 10 of the FAA. Rather, a district court can only consider a post-award motion if the initial application itself provided for jurisdiction.

Supreme Court Likely to Maintain District Court Authority

- Reading the tea leaves, the Supreme Court appears ready to reject the petitioner’s attempt to extend *Badgerow* and instead rule that if a district court had jurisdiction at the outset (i.e., federal question or diversity jurisdiction), it does not lose jurisdiction to decide a post-arbitration motion after compelling the claims to arbitration and staying the case.


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