

Supreme Court Holds Partial-Public Employees Cannot Be Forced to Pay Dues to a Union They Do Not Wish to Join

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The United States Supreme Court issued an opinion on June 30, 2014, finding that eight home health care workers in Illinois cannot be compelled to pay dues to a union they do not wish to join. The workers were part of the Illinois Rehabilitation Program (the “Program”), which was designed to prevent unnecessary institutionalization of individuals who can sufficiently be cared for at home at a lesser cost to the state. The Program allows participants to hire a “personal assistant,” typically a family member, who provides homecare services tailored to the individual’s needs. Illinois state law establishes an employer-employee relationship between the caregiver and disabled customer. While the customer exercises predominant control over the employment relationship, Illinois, subsidized by the federal Medicaid program, pays the assistant’s salary.

In March of 2003, then-Governor Rod Blagojevich issued an Executive Order, calling for state recognition of a union as the personal assistants’ exclusive bargaining representative. Several months later, the Illinois Public Labor Relations Act (“PLRA”) was amended, and the Service Employees International Union (“SEIU”) was designated as the personal assistants’ exclusive bargaining representative. Subsequently, the SEIU and Illinois entered into a collective bargaining agreement that required all personal assistants, who were not union members, to pay a “fair share” of the union dues.

Petitioners were personal assistants under the Program, providing in-home services to disabled family members. In 2010, they filed a class action on behalf of all Program personal assistants in the United States District Court for the Northern District of Illinois, seeking an injunction against enforcement of the fair-share provision and a declaration that the PLRA violates the First Amendment. The District Court dismissed their claims, and the Seventh Circuit Court of Appeals affirmed, relying on [Abood v. Detroit Board of Education, 431 U.S. 209 \(1977\)](#), which held that state employees who choose not to join a public-sector union may nevertheless be compelled to pay a fee to support union work that is related to the collective bargaining process.

On appeal, the [United States Supreme Court reversed the Seventh Circuit](#), finding that *Abood* failed to appreciate the difference between core union speech involuntarily subsidized by dissenting public-sector

employees and core union speech involuntarily funded by their counterparts in the private sector. The Court reasoned that, pursuant to the Illinois Legislature, personal assistants are public employees for only one purpose: collective bargaining. For all other purposes, the State regards them as private-sector employees whose duties are specified in their individualized Service Plan and who are supervised and evaluated by their specific customers. In addition, Illinois withholds from personal assistants most of the rights and benefits enjoyed by full-fledged state employees; therefore, they are considered partial- or quasi-public employees not encompassed by *Abood*.

This decision called into question prior Supreme Court precedent and signaled the Court's disapproval of state laws requiring public-sector workers to pay union dues.

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