Janus v. AFSCME

The Case

Plaintiffs in the U.S. Supreme Court case *Janus v. AFSCME* contend compulsory union fees for public-sector workers violates their First Amendment rights.

The Players

- Plaintiffs: Mark Janus, a child support specialist, along with two other Illinois public sector workers, do not belong to the union and must pay compulsory agency fees to keep their jobs.
- Defendants: The American Federation of State, County & Municipal Workers, Council 31 (AFSCME), affiliate of the national union AFSCME, represents 35,000 members in Illinois; Teamsters Local 916 represents 2,700 public employees in Illinois.

The Story

In 22 forced-union states, including Pennsylvania, government unions exclusively represent public sector workers and force them to pay dues. Under the Supreme Court ruling in *Abood v. Detroit Board of Education* (1977), public employees who do not join the union can be required to pay "agency fees" or "compulsory fees" to the union to cover collective bargaining costs.

Janus contends that collective bargaining is political activity, thus, forcing public sector employees to support an organization and its political activities violates their First Amendment rights of freedom of association and freedom of speech.

The Impact

In *Janus*, the Court will consider:

- Overruling *Abood v. Detroit Board of Education*, which would end the practice of charging public employees agency fees if they choose to opt out of union membership.
- Overruling the precedent that unions serve a "compelling state interest," which has been used to justify compulsory fees that violate public employees' First Amendment rights.

If the Court rules in Janus's favor, five million public sector employees would regain their First Amendment rights to choose which organizations and political causes they support.

The Pennsylvania Impact

In a similar case filed in federal court in 2017, four Pennsylvania teachers sued the Pennsylvania State Education Association (PSEA) to end compulsory union fees (*Hartnett v. PSEA)*. The teachers have also filed an Amicus Brief supporting Janus, since the Janus case could set a precedent affecting thousands of Pennsylvania public sector workers.

Answering Common Questions

Q. Why eliminate agency fees when they only cover the cost of collective bargaining and not the union's political advocacy?

A. Collective bargaining is inherently political. Unions negotiate over wages, benefits, pensions, and various working conditions directly dictating government spending—an activity considered "lobbying" when conducted by any other industry.

Every dollar that goes to a union priority as part of a contract is a dollar that the government can't use for social services, road repairs, or tax relief. Workers who object to union priorities and working conditions should not have to fund such activities.

Q. The law has survived for 40 years—haven't agency fees been ruled constitutional?

A. In cases such as *Knox v. Service Employees International Union, Local 1000* (2012) and *Harris v. Quinn* (2014), the U.S. Supreme Court has struggled to define what unions can constitutionally charge public workers—perpetuating the debate over whether agency fees violate First Amendment rights.

Most recently, the U.S. Supreme Court deadlocked 4-4 in *Friedrichs v. California Teachers Association* (2016), a case which also sought to end compulsory union fees for teachers. The tie resulted from the passing of Justice Antonin Scalia.

Q. Doesn't federal law prohibit forced union membership? Agency fees simply cover the costs of representing workers who would otherwise not pay, becoming free-riders that hurt a union's ability to organize.

A. Government unions willingly negotiate to become the exclusive representative of public employees. This power eliminates any competition for workers' membership or dues, allowing them to perpetuate status quo representation that is out of touch with the people they represent.

Government unions can negotiate contracts without this provision. The result: public employees can willingly join unions and pay membership dues, but employees who *don't* want to be bound by those contracts would have the freedom to pursue their own working conditions. Unions will become organizations of voluntary, enthusiastic members, not filled with ranks of unwilling and frustrated workers.

Q. Isn't this just an anti-union attack on workers driven by outside lobbyists and foundations?

A. This is a matter of basic rights like freedom of speech, conscience, and association. The fundamental question remains: should anyone be forced to financially support a private organization and political speech as a condition of employment?

In reality, AFSCME enjoys hundreds of millions of dollars in revenue as a privileged political class, forcing workers to pay dues and fees to keep their jobs. This case is about workers taking a stand to restore their rights.