

The Supreme Court - April 29, 2019

The Supreme Court of the United States issued the following decision this morning:

Thacker v. TVA, No. 17-1201: The Tennessee Valley Authority (“TVA”) is a federally-created and Government-owned corporation that supplies electric power. The TVA Act provides that the TVA “[m]ay sue and be sued in its name.” 16 U.S.C. §831c(b). Petitioner Gary Thacker brought a negligence suit against the TVA after he was seriously injured when the boat he was driving collided with a power line the TVA was working on which had fallen into the water. The District Court granted the TVA’s motion to dismiss on sovereign immunity grounds, and the Eleventh Circuit affirmed. The Eleventh Circuit did so applying the same test it used under the Federal Tort Claims Act, which waives sovereign immunity from tort suits involving Federal agencies, subject to an exception for claims based on a federal employee’s performance of a “discretionary function.” See 28 U.S.C. §2680(a). Today, the Court reversed, holding that the TVA’s sue-and-be-sued clause is broad and does not contain any discretionary functions exception. Instead, the TVA is subject to suits challenging any of its commercial activities. The Court did recognize, however, that the TVA may have immunity from suits contesting a governmental activity of a kind not typically carried out by private parties, and remanded for consideration on that basis.

The Court’s decision is available [here](#).

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