

The Supreme Court - April 3, 2017

The Supreme Court of the United States issued decisions in two cases today:

McLane Co. v. EEOC, No. 15-1248: Damiana Ochoa filed a discrimination charge against petitioner McLane Co. when she was terminated after failing, on three occasions, to pass a physical evaluation for her physically demanding job after returning from maternity leave. The EEOC began an investigation, and when McLane refused to provide “pedigree information,” i.e., names, Social Security numbers, addresses and telephone numbers for employees, the EEOC issued subpoenas to obtain the information. When McLane continued to refuse, the EEOC filed two actions in federal court (one arising out of Ochoa’s charge and one arising out of the EEOC’s own charge), both seeking to enforce the subpoenas. The District Court declined to enforce the subpoenas, finding the information not relevant to the charges. The Ninth Circuit, applying de novo review, reversed. Today, the Court vacated and remanded, holding that a court of appeals should review a district court’s decision to enforce or quash an EEOC subpoena for abuse of discretion.

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

Dean v. United States, No. 15-9260: Petitioner Levon Dean, Jr., was convicted of one count of conspiracy to commit robbery, two counts of robbery, and one count of possessing a firearm as a convicted felon, based upon drug-related robberies Dean committed with his brother. He was also convicted of two counts of possessing and aiding and abetting the possession of a firearm in furtherance of a crime of violence under 18 U.S.C. §§2 and 924(c). Section 924(c) requires a mandatory minimum sentence of five years for the first conviction and 25 years for the second, and further mandates that those sentences be in addition to and served consecutive to the sentence for the underlying predicate offense. Dean’s underlying convictions provided for a Sentencing Guidelines range of 84-105 months. But Dean argued that the District Court should consider his 30-year mandatory minimum, and thus only impose a concurrent one-day sentence for those other counts. The District Court agreed that 30 years plus

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one day was more than sufficient as a sentence in this case, but determined that this was foreclosed by the statute, and instead imposed concurrent sentences of 40 months for the underlying offenses. The Eighth Circuit affirmed that Dean's sentencing argument was foreclosed by Circuit precedent. The Court today reversed, holding that nothing in §924(c) prevents a sentencing court from considering a mandatory minimum under that section when calculating an appropriate sentence for the predicate offense.

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

The Supreme Court of the United States granted certiorari in two cases today:

Jesner v. Arab Bank, PLC, No. 16-499: Whether the Alien Tort Statute, 28 U.S.C. §1350, categorically forecloses corporate liability.

Ayestas v. Davis, No. 15-9260: Whether the Fifth Circuit erred in holding that 18 U.S.C. §3599(f) withholds "reasonably necessary" resources to investigate and develop an ineffective-assistance-of-counsel claim that state habeas counsel forfeited, where the claimant's existing evidence does not meet the ultimate burden of proof at the time the §3599(f) motion is made.