

The Supreme Court - May 01, 2017

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

Bolivarian Republic of Venezuela v. Helmerich & Payne Int'l Drilling Co., No. 15-423: Respondent companies brought suit in federal court against the Venezuelan Government. Venezuela moved to dismiss on sovereign immunity grounds. Plaintiffs alleged an exception to immunity under the Foreign Sovereign Immunity Act's ("FSIA") expropriation exception, which applies, *inter alia*, to "any case . . . in which rights in property taken in violation of international law are at issue." 28 U.S.C. §1604. The District Court dismissed in part on jurisdictional grounds, but the D.C. Circuit found that the claim fell within the exception because it was raised in a "nonfrivolous" way. The Court today vacated and remanded, holding that a party's nonfrivolous, but ultimately incorrect, argument that property was taken in violation of international law is insufficient to confer jurisdiction, and that where jurisdictional questions turn upon further factual development, the trial judge may take evidence and resolve relevant factual disputes, and should do so as near to the outset of the case as is reasonably possible.

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

Bank of America Corp. v. Miami, No. 15-1111: The City of Miami brought Fair Housing Act ("FHA") suits against Bank of America and Wells Fargo, alleging that the banks intentionally issued riskier mortgages on less favorable terms to minority customers, and that these discriminatory practices adversely impacted the City's racial composition, goals, interest in fair housing, and disproportionately caused foreclosures and vacancies in minority communities. The City further alleged that these foreclosures and vacancies decreased property value and in turn reduced the City's tax revenues, while also forcing the City to spend more to remedy blight, unsafe, and dangerous conditions. The District Court dismissed the complaints, finding that the harms were outside the FHA's zone of interests, and further that the complaints did not show a sufficient causal connection between the Banks' purported conduct and the City's claimed injuries. The Eleventh Circuit reversed. Today, the Court vacated and remanded, holding that the City's claimed

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injuries fall within the zone of interests that the FHA arguably protects, and that to establish proximate cause under the FHA a plaintiff must do more than show that its injuries foreseeably flowed from the alleged statutory violation.

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

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

Merit Management Group, LP v. FTI Consulting, Inc., No. 16-784: Whether the safe harbor of 11 U.S.C. §546(e) prohibits avoidance of a transfer made by or to a financial institution, without regard to whether the institution has a beneficial interest in the property transferred, consistent with decisions from the Second, Third, Sixth, Eighth, and Tenth Circuits, but contrary to decisions from the Eleventh Circuit and now the Seventh Circuit.

Patchak v. Zinke, Sec. of Interior, No. 16-498: Does a statute directing the federal courts to “promptly dismiss” a pending lawsuit following substantive determinations by the courts (including this Court’s determination that the “suit may proceed”)—without amending underlying substantive or procedural laws—violate the Constitution’s separation of powers principles?