

The Supreme Court Update - February 8, 2024

by Ian Blodger, Brock Huebner, and Jessica M. Leano

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

Murray v. UBS Securities, LLC, No. 22-660: This case concerns the elements required to prove an employer retaliated against a whistleblower employee in violation of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A(a). The plaintiff alleged that UBS Securities, LLC terminated his employment in retaliation for him whistleblowing about UBS's alleged unlawful conduct. At trial, UBS argued that it was entitled to judgment as a matter of law because the plaintiff failed to establish the plaintiff's supervisor acted with "retaliatory animus." The district court rejected UBS's argument, but the Second Circuit reversed, agreeing with UBS. In a 9-0 decision authored by Justice Sotomayor, the Supreme Court reversed, holding that a whistleblower asserting a claim under 18 U.S.C. § 1514A(a) must prove that his protected activity was a contributing factor to the employer's unfavorable personnel action, but need not provide that his employer acted with retaliatory intent. Justice Alito filed a concurring opinion, joined by Justice Barrett.

View the [Court's decision](#).

Department of Agriculture Rural Development Rural Housing Service v. Kirtz, No.

22-846: This case concerns the scope of sovereign immunity of the United States. Reginald Kirtz alleged that a division of the United States Department of Agriculture ("USDA") falsely told a credit reporting agency that Kirtz's loan with the USDA was past due. Kirtz claimed the USDA's actions violated the Fair Credit Reporting Act ("FCRA") and he thus sued the USDA for money damages. After the USDA invoked sovereign immunity to dismiss the lawsuit, the Third Circuit ruled that the text of the FCRA precluded sovereign immunity defenses. Today, in a 9-0 opinion authored by Justice Gorsuch, the Court agreed and held that the FCRA allows suits against government agencies. Although the FCRA does not specifically address sovereign immunity, the Court determined that the law waived the defense by authorizing lawsuits against "any person," which was expressly defined to include "any" government agency. 15 U.S.C. §§ 1681a, 1681n, 1681o.

Related People

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Related Capabilities

- Appellate

View the [Court's decision](#).