

The Supreme Court Update - May 22, 2023

by Brock Huebner

Today, the Supreme Court of the United States issued one decision:

Calcutt v. Federal Deposit Insurance Corp., No. 21-714: This case involved review of the Federal Deposit Insurance Corp.'s (FDIC) disciplinary order against a community bank executive, Harry Calcutt. The FDIC ordered Mr. Calcutt removed from his position, prohibited him from working in the banking industry for life, and assessed \$125,000 in civil penalties. On appeal, the Sixth Circuit determined the FDIC made two legal errors, but rather than remand the case, the Sixth Circuit conducted its own review of the record and concluded that substantial evidence supported the FDIC's decision. Today, in an unsigned opinion, the Court issued a summary reversal, holding that "the Sixth Circuit should have followed the ordinary remand rule" after finding error by an agency. While the Court acknowledged there may be "narrow circumstances" where remand is unwarranted after finding agency error, that exception did not apply because the question whether to sanction Mr. Calcutt was "a discretionary judgment" and "highly fact specific and contextual."

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

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