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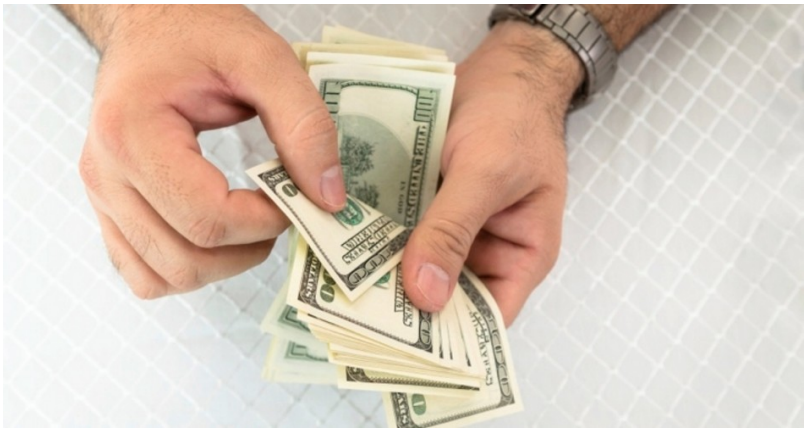
Supreme Court: Government Unions Can't Collect Dues From Non-members



While working a summer job during my college days in the paint shop of Halliburton (we had a lot of red and gray paint) in my hometown of Duncan, Oklahoma, I became involved in a conversation with a strong union advocate. I told him that I thought it was wrong for labor unions to get involved in political issues and campaigns, using forced union dues, because often the issues had little to nothing to do with working conditions for their members.

I specifically cited that the unions had supported Senator George McGovern's presidential campaign in the most recent election, and that he had lost 49 states. Literally millions of union members had not supported the same candidate as the union bosses. That did not matter, he told me, as some workers are just not smart enough to know what is good for them, and the union leaders (such as himself) must protect them from their own ignorance.

This attitude is quite common among political activists who work their way into labor-union leadership. They see the union as a way to promote left-wing political causes. *Forced union membership* gives them greater political clout.

To the contrary, Thomas Jefferson said, "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical."

It is particularly onerous when the worker is forced to pay tribute to a public-employee union. Not even liberal Democrat President Franklin Roosevelt, a strong supporter of organized labor in the private sector, favored public-employee unions.

On Wednesday, the U.S. Supreme Court, in a 5-4 ruling, delivered a stinging defeat to public-sector unions, when they held that government workers cannot be compelled to pay dues to unions that represent them in collective bargaining. The ruling (*Mark Janus v. AFSCME*) overturned the *Abood* decision of four decades past, which had allowed states to require public employees to pay agency fees or dues — money supporting collective bargaining and other union activities.

President Donald Trump was quick to sing the praises of the decision, calling it a huge loss for the Democratic Party. "Supreme Court rules in favor of non-union workers who are now, as an example, able to support a candidate of his or her choice without having those who control the Union deciding for them. Big loss for the coffers of the Democrats!"

Associate Justice Samuel Alito wrote the majority opinion, in which he said, "We conclude that this arrangement violates the free speech rights of nonmembers by compelling them to subsidize private speech on matters of substantial public concern."

The case was brought by Mark Janus, a childcare specialist in the Illinois Department of Healthcare and

Child Support Services. Janus refused to join the union because of his opposition to "many of the public policy positions that [it] advocates, including the positions it takes in collective bargaining," Alito wrote. He added that Janus believes that the union's "behavior in bargaining does not appreciate the current fiscal crisis in Illinois and does not reflect his best interests or the interests of Illinois citizens." There is certainly truth to this, as Illinois' state government is in perhaps the worst fiscal crisis of any state. Despite not being a union member, Janus still had to give about $550 annually to the public-sector union, AFSCME. Janus told Fox News, "I work for Health and Family Services, and I'm forced to pay money to a union that then supports political causes that I don't agree with."

Alito noted, "It is an odd feature of our First Amendment cases that political patronage has been deemed largely unconstitutional, while forced subsidization of union speech has been largely permitted."

To those who argued that Janus' freedom of speech had not been curtailed by the union, Alito countered that freedom of speech "includes both the right to speak freely and the right to refrain from speaking at all."

"This procedure [taking 'agency fees' out of the paychecks of non-union members] violates the First Amendment and cannot continue," Alito wrote. "Neither an agency fee nor any other payment to the union may be deducted from a non-member's wages, nor may any other attempt be made to collect such payment, unless the employee affirmatively consents to pay."

Predictably, Associate Justice Elena Kagan, an appointee of President Barack Obama, wrote a strong dissent. Castigating the majority opinion, Kagan wrote, "It prevents the American people, acting through their state and local officials, from making important choices about workplace governance. And it does so by weaponizing the First Amendment, in a way that unleashes judges, now and in the future, to intervene in economic and regulatory policy."

Kagan argued, "Almost all economic and regulatory policy affects or touches speech.… The First Amendment was meant for better things. It was meant not to undermine but to protect democratic governance — including over the role of public-sector unions."

Apparently, protecting the right of a Christian to refuse to bake a cake for a same-sex wedding is not among the "better things" that Kagan views as deserving the protection of the First Amendment. Kagan and the same three judges who were in the minority in this case were likewise in the minority in the recently decided case that upheld a person's First Amendment religious liberty rights.

The effect of this ruling cannot be overstated. While only 6.5 percent of employees in the private sector are unionized, 34.4 percent of public workers are. Removing the requirement that these government employees pay tribute to a labor union that supports the political party most associated with expanding the size and scope of government — the Democratic Party — removes a significant source of income for these these unions, the liberal causes they support, and the political fortunes of the Democratic Party.