

17-419 DAWSON V. STEAGER, WV STATE TAX COMMISSIONER

DECISION BELOW: 2017 WL 2172006

LOWER COURT CASE NUMBER: 16-0441

QUESTION PRESENTED:

In *Davis v. Michigan Department of Treasury*, 489 U.S. 803, 815-16 (1989), this Court held that a state may not impose a heavier tax burden on federal employees than state employees, unless the discriminatory treatment is "justified by significant differences between the two classes." Such tax discrimination- even against a "subcategory" of federal employees- violates the doctrine of intergovernmental tax immunity and 4 U.S.C. § 111. See *Jefferson Cty., Ala. v. Acker*, 527 U.S. 423 (1999).

James Dawson worked as a deputy U.S. Marshal before being presidentially appointed as the U.S. Marshal for the Southern District of West Virginia. Mr. Dawson was enrolled exclusively in the Federal Employee Retirement System ("FERS"). He sought a West Virginia tax exemption for all of his FERS retirement income, but that exemption was ultimately denied.

Under West Virginia Law, Mr. Dawson is entitled to exempt *a portion* of his FERS income from his state taxable income. See W. VA. CODE §§ 11-21-12(c)(5) and 11-21-12(c)(8). In contrast, West Virginia law allows state law enforcement retirees to *entirely exempt* from their taxable income *all benefits* received from four West Virginia retirement plans. See *id.* § 11-21-12(c)(6). Federal law enforcement retirees like Mr. Dawson are not entitled to full exemptions, although it is undisputed that Mr. Dawson's job duties were not significantly different from those of the exempted state law enforcement officers.

After *Davis*, three state courts of last resort struck down tax laws that discriminate against federal employees, but three state courts of last resort have upheld such laws based on an extremely narrow and strained reading of *Davis*, while many other state courts of last resort have inconsistently ruled on related laws.

The question presented is:

Whether this Court's precedent and the doctrine of intergovernmental tax immunity bars states from exempting groups of state retirees from state income tax while discriminating against similarly situated federal retirees based on the source of their retirement income.

GRANTED LIMITED TO THE QUESTION PRESENTED BY THE SOLICITOR GENERAL IN HIS BRIEF FOR THE UNITED STATES AS *AMICUS CURIAE*.

Whether the doctrine of intergovernmental tax immunity, as codified in 4 U.S.C. 111, prohibits the State of West Virginia from exempting from state taxation the retirement benefits of certain former state law-enforcement officers, without providing the same exemption for the retirement benefits of former employees of the United States Marshals Service.

CERT. GRANTED 6/25/2018