SUPREME COURT OF THE UNITED STATES

United States v. Gaubert

499 U.S. 315 (1991) · No. No. 89-1793 · Decided March 26, 1991

SUMMARY

The Supreme Court held that regulatory actions by federal officials overseeing a savings and loan association fell within the discretionary function exception to liability under the Federal Tort Claims Act. The Court rejected a distinction between protected policy decisions and unprotected operational or management-level actions, explaining that discretionary conduct may include day-to-day decisions when grounded in public policy. The Court reversed the judgment of the Fifth Circuit.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice White
JURISDICTION	Federal
DECIDED	March 26, 1991
DOCKET	No. 89-1793
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Thomas M. Gaubert brought an action under the Federal Tort Claims Act against the United States, alleging negligence by federal savings-and-loan regulators in supervising and participating in the management of Independent American Savings Association. The United States District Court for the Northern District of Texas dismissed the action under the discretionary-function exception. The Fifth Circuit affirmed in part and reversed in part, holding that certain day-to-day operational activities were outside the exception. The Supreme Court granted certiorari.
STANDARD OF REVIEW	On review of dismissal under Federal Rule of Civil Procedure 12(b)(6), the Court accepted the complaint's factual allegations as true and considered whether the allegations stated a claim sufficient to survive dismissal.
PRECEDENTIAL VALUE	binding
PARTIES	United States v. Thomas M. Gaubert

TOPICS

administrative law | negligence | torts | judicial review of agency action

PRACTICE AREAS

Federal Tort Claims Act | sovereign immunity | administrative law | financial institution regulation

QUESTIONS PRESENTED

1. Whether the Federal Tort Claims Act's discretionary-function exception applies to governmental decisions made at the operational or management level rather than only to planning or policymaking decisions.
2. Whether the federal regulators' challenged supervisory activities involved discretionary judgment and were grounded in social, economic, or political policy within the meaning of 28 U.S.C. § 2680(a).

HOLDINGS

1. The discretionary-function exception is not confined to planning or policymaking functions; operational and day-to-day management decisions may also be protected when they involve judgment or choice and are grounded in public-policy considerations.
2. The challenged actions were discretionary and grounded in public policy, so Gaubert's FTCA claims were barred by the discretionary-function exception.

KEY QUOTATIONS

> *“The exception covers only acts that are discretionary in nature, acts that "involv[e] an element of judgment or choice,"”* (499 U.S. at 322-323)

> *“The focus of the inquiry is not on the agent's subjective intent in exercising the discretion conferred by statute or regulation, but on the nature of the actions taken and on whether they are susceptible to policy analysis.”* (499 U.S. at 325)

> *“A discretionary act is one that involves choice or judgment; there is nothing in that description that refers exclusively to policymaking or planning functions.”* (499 U.S. at 325-326)

> *“Because from the face of the amended complaint, it is apparent that all of the challenged actions of the federal regulators involved the exercise of discretion in furtherance of public policy goals, the Court of Appeals erred in failing to find the claims barred by the discretionary function exception of the FTCA.”* (499 U.S. at 334)

FACTUAL BACKGROUND

Federal regulators supervised Independent American Savings Association, a Texas-chartered and federally insured savings and loan. They pressured its chairman, Thomas Gaubert, to sign a neutralization agreement and provide a $25 million property interest as security, later replaced IASA's management, and became involved in numerous day-to-day business decisions, including hiring consultants, bankruptcy decisions, salary disputes, litigation, charter conversion, and dealings with Texas regulators. IASA ultimately entered receivership, and Gaubert sought damages for the loss of his shares and property under the Federal Tort Claims Act.

PROCEDURAL HISTORY

The District Court dismissed all claims, concluding that the challenged regulatory actions fell within the discretionary-function exception to the FTCA. The Fifth Circuit affirmed dismissal of claims concerning the merger, neutralization agreement, personal guarantee, and replacement of management, but reversed as to claims concerning the regulators' subsequent involvement in IASA's day-to-day affairs. The Supreme Court reversed the Fifth Circuit and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the Court of Appeals for proceedings consistent with the Supreme Court's opinion.

CASES CITED

- Berkovitz v. United States, 486 U.S. 531 (1988)
- Dalehite v. United States, 346 U.S. 15 (1953)
- United States v. Varig Airlines, 467 U.S. 797 (1984)
- Indian Towing Co. v. United States, 350 U.S. 61 (1955)
- United States v. Philadelphia National Bank, 374 U.S. 321 (1963)
- Miami Beach Federal Savings & Loan Association v. Callander, 256 F.2d 410 (5th Cir. 1958)
- Federal Deposit Insurance Corp. v. Mmahat, 907 F.2d 546 (5th Cir. 1990)

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