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SUPREME COURT OF THE UNITED STATES

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ALDEN ET AL. v. MAINE

CERTIORARI TO THE SUPREME JUDICIAL COURT OF MAINE

No. 98–436. Argued March 31, 1999— Decided June 23, 1999

After this Court decided, in *Seminole Tribe of Fla. v. Florida*, 517 U. S. 44, that Congress lacks power under Article I to abrogate the States’ sovereign immunity in federal court, the Federal District Court dismissed a Fair Labor Standards Act of 1938 suit filed by petitioners against their employer, respondent Maine. Subsequently, petitioners filed the same action in state court. Although the FLSA purports to authorize private actions against States in their own courts, the trial court dismissed the suit on the ground of sovereign immunity. The Maine Supreme Judicial Court affirmed.

Held:

1. The Constitution’s structure and history and this Court’s authoritative interpretations make clear that the States’ immunity from suit is a fundamental aspect of the sovereignty they enjoyed before the Constitution’s ratification and retain today except as altered by the plan of the Convention or certain constitutional Amendments. Under the federal system established by the Constitution, the States retain a “residuary and inviolable sovereignty.” The Federalist No. 39, p. 245. They are not relegated to the role of mere provinces or political corporations, but retain the dignity, though not the full authority, of sovereignty. The founding generation considered immunity from private suits central to this dignity. The doctrine that a sovereign could not be sued without its consent was universal in the States when the Constitution was drafted and ratified. In addition, the leading advocates of the Constitution gave explicit assurances during the ratification debates that the Constitution would not strip States of sovereign immunity. This was also the understanding of those state conventions that addressed state sovereign immunity in their ratification documents. When, just five years after the Constitution’s adoption, this Court held that Article III authorized a private

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citizen of another State to sue Georgia without its consent, *Chisholm v. Georgia*, 2 Dall. 419, the Eleventh Amendment was ratified. An examination of *Chisholm* indicates that the case, not the Amendment, deviated from the original understanding, which was to preserve States' traditional immunity from suit. The Amendment's text and history also suggest that Congress acted not to change but to restore the original constitutional design. Finally, the swiftness and near unanimity with which the Amendment was adopted indicate that the Court had not captured the original understanding. This Court's subsequent decisions reflect a settled doctrinal understanding that sovereign immunity derives not from the Eleventh Amendment but from the structure of the original Constitution. Since the Amendment confirmed rather than established sovereign immunity as a constitutional principal, it follows that that immunity's scope is demarcated not by the text of the Amendment alone but by fundamental postulates implicit in the constitutional design. Pp. 3–20.

2. The States' immunity from private suit in their own courts is beyond congressional power to abrogate by Article I legislation. Pp. 20–45.

(a) Congress may exercise its Article I powers to subject States to private suits in their own courts only if there is compelling evidence that States were required to surrender this power to Congress pursuant to the constitutional design. *Blatchford v. Native Village of Noatak*, 501 U. S. 775, 781. Pp. 20–21.

(b) Neither the Constitution's text nor the Court's recent sovereign immunity decisions establish that States were required to relinquish this portion of their sovereignty. Pp. 21–31.

(1) The Constitution, by delegating to Congress the power to establish the supreme law of the land when acting within its enumerated powers, does not foreclose a State from asserting immunity to claims arising under federal law merely because that law derives not from the State itself but from the national power. See, e.g., *Hans v. Louisiana*, 134 U. S. 1. Moreover, the specific Article I powers delegated to Congress do not necessarily include the incidental authority to subject States to private suits as a means of achieving objectives otherwise within the enumerated powers' scope. Those decisions that have endorsed this contention, see, e.g., *Parden v. Terminal R. Co. of Ala. Docks Dept.*, 377 U. S. 184, 190–194, have been overruled, see, e.g., *College Savings Bank v. Florida Prepaid Postsecondary Ed. Expense Bd.*, ante, at _____. Pp. 21–26.

(2) Isolated statements in some of this Court's cases suggest that the Eleventh Amendment is inapplicable in state courts. This is a truism as to the Amendment's literal terms. However, the Amendment's bare text is not an exhaustive description of States'

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constitutional immunity, and the cases do not decide the question whether States retain immunity in their own courts notwithstanding an attempted abrogation by Congress. Pp. 26–31.

(c) Whether Congress has the authority under Article I to abrogate a State’s immunity in its own courts is, then, a question of first impression. History, practice, precedent, and the Constitution’s structure show no compelling evidence that this derogation of the States’ sovereignty is inherent in the constitutional compact. Pp. 31–48.

(1) Turning first to evidence of the original understanding of the Constitution: The founders’ silence regarding the States’ immunity from suit in their own courts, despite the controversy regarding state sovereign immunity in federal court, suggests the sovereign’s right to assert immunity from suit in its own courts was so well established that no one conceived the new Constitution would alter it. The arguments raised for and against the Constitution during ratification confirm this strong inference. Similarly, nothing in *Chisholm*, the catalyst for the Eleventh Amendment, suggested the States were not immune from suits in their own courts. The Amendment’s language, furthermore, was directed toward Article III, the only constitutional provision believed to call state sovereign immunity into question; and nothing in that Article suggested the States could not assert immunity in their own courts or that Congress had the power to abrogate such immunity. Finally, implicit in a proposal rejected by Congress— which would have limited the Amendment’s scope to cases where States had made available a remedy in their own courts— was the premise that States retained their immunity and the concomitant authority to decide whether to allow private suits against the sovereign in their own courts. Pp. 31–34.

(2) The historical analysis is supported by early congressional practice. Early Congresses enacted no statutes purporting to authorize suits against nonconsenting States in state court, and statutes purporting to authorize such suits in any forum are all but absent in the Nation’s historical experience. Even recent statutes provide no evidence of an understanding that Congress has a greater power to subject States to suit in their own courts than in federal courts. Pp. 34–35.

(3) The theory and reasoning of this Court’s earlier cases also suggest that States retain constitutional immunity from suit in their own courts. The States’ immunity has been described in sweeping terms, without reference to whether a suit was prosecuted in state or federal court. See, e.g., *Briscoe v. Bank of Kentucky*, 11 Pet. 257, 321–322. The Court has said on many occasions that the States retain their immunity in their own courts, see, e.g., *Beers v. Arkansas*,

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20 How. 527, 529, and has relied on that as a premise in its Eleventh Amendment rulings, see, *e.g.*, *Hans v. Louisiana*, *supra*, at 10. Pp. 35–39.

(4) A review of the essential principles of federalism and the state courts' special role in the constitutional design leads to the conclusion that a congressional power to subject nonconsenting States to private suits in their own courts is inconsistent with the Constitution's structure.

Federalism requires that Congress accord States the respect and dignity due them as residuary sovereigns and joint participants in the Nation's governance. Immunity from suit in federal courts is not enough to preserve that dignity, for the indignity of subjecting a nonconsenting State to the coercive process of judicial tribunals at the instance of private parties exists regardless of the forum. In some ways, a congressional power to authorize suits against States in their own courts would be even more offensive to state sovereignty than a power to authorize suits in a federal forum, since a sovereign's immunity in its own courts has always been understood to be within the sole control of the sovereign itself. Further, because the Federal Government retains its own immunity from suit in state and federal court, this Court is reluctant to conclude that States are not entitled to a reciprocal privilege. Underlying constitutional form are considerations of great substance. Private suits against nonconsenting States may threaten their financial integrity, and the surrender of immunity carries with it substantial costs to the autonomy, decisionmaking ability, and sovereign capacity of the States. A general federal power to authorize private suits for money damages would also strain States' ability to govern in accordance with their citizens' will, for judgment creditors compete with other important needs and worthwhile ends for access to the public fisc, necessitating difficult decisions involving the most sensitive and political of judgments. A national power to remove these decisions regarding the allocation of scarce resources from the political processes established by the citizens of the States and commit their resolution to judicial decrees mandated by the Federal Government and invoked by the private citizen would blur not only the State and National Governments' distinct responsibilities but also the separate duties of the state government's judicial and political branches.

Congress cannot abrogate States' sovereign immunity in federal court; were the rule different here, the National Government would wield greater power in state courts than in federal courts. This anomaly cannot be explained by reference to the state courts' special role in the constitutional design. It would be unprecedented to infer from the fact that Congress may declare federal law binding

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and enforceable in state courts the further principle that Congress' authority to pursue federal objectives through state courts exceeds not only its power to press other branches of the State into its service but also its control over federal courts. The constitutional provisions upon which this Court has relied in finding state courts peculiarly amendable to federal command, moreover, do not distinguish those courts from the Federal Judiciary. No constitutional precept would admit of a congressional power to require state courts to entertain federal suits which are not within the United States' judicial power and could not be heard in federal courts. Pp. 39–46.

3. A State's constitutional privilege to assert its sovereign immunity in its own courts does not confer upon the State a concomitant right to disregard the Constitution or valid federal law. States and their officers are bound by obligations imposed by the Constitution and federal statutes that comport with the constitutional design. Limits implicit in the constitutional principle of sovereign immunity strike the proper balance between the supremacy of federal law and the separate sovereignty of the States. The first limit is that sovereign immunity bars suits only in the absence of consent. Many States have enacted statutes consenting to suits and have consented to some suits pursuant to the plan of the Convention or to subsequent constitutional Amendments. The second important limit is that sovereign immunity bars suits against States but not against lesser entities, such as municipal corporations, or against state officers for injunctive or declaratory relief or for money damages when sued in their individual capacities. Pp. 46–48.

4. Maine has not waived its immunity. It adheres to the general rule that a specific legislative enactment is required to waive sovereign immunity. Although petitioners contend that Maine discriminated against federal rights by claiming immunity from this suit, there is no evidence that it has manipulated its immunity in a systematic fashion to discriminate against federal causes of action. To the extent Maine has chosen to consent to certain classes of suits while maintaining its immunity from others, it has done no more than exercise a privilege of sovereignty. P. 49.

715 A. 2d 172, affirmed.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, and THOMAS, JJ., joined. SOUTER, J., filed a dissenting opinion, in which STEVENS, GINSBURG, and BREYER, JJ., joined.