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U.S. Supreme Court Determines that State Employees Cannot Sue under the FMLA's Self-Care Provisions

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Coleman v. Court Of Appeals of MD., 566 U. S. _____ (2012)

On March 20, 2012, the U.S. Supreme Court held in *Coleman v. Court of Appeals of Maryland* that states are immune from lawsuits under the self-care provisions of the Family and Medical Leave Act ("FMLA").

This case involves the employment of Plaintiff-Petitioner Daniel Coleman who was employed by the Court of Appeals of the State ofMaryland. When Coleman requested sick leave, he was informed he would be terminated if he did not resign. Coleman then sued the State court in the United States District Court for the District of Maryland, alleging that his employer violated the FMLA by failing to provide him with self-care leave. The District Court dismissed the suit on the basis that the Maryland Court of Appeals, as an entity of a sovereign State, was immune from the suit for damages and the FMLA's self-care provision did not validly abrogate the State's immunity from suit. The Court of Appeals for the Fourth Circuit affirmed and the Supreme Court subsequently granted certiorari in order to determine whether Congress constitutionally abrogated states' Eleventh Amendment immunity when it passed the self-care leave provision of the FMLA.

Generally, States, as sovereigns, are immune from suits for damages unless they elect to waive that defense. Congress may, however, abrogate States' immunity from suit pursuant to its powers under §5 of the Fourteenth Amendment. Any monetary liability upon the States requires an assessment of both the "evil" or "wrong" that Congress intended to remedy. Further, legislation enacted under §5 must be targeted at "conduct transgressing the Fourteenth Amendment's substantive provisions" and "[t]here must be a congruence and proportionality between the injury to be prevented or remedied and the means adopted to that end."

Writing for the Court, Justice Kennedy distinguished the case at hand from the Court's previous decision in *Nevada Dept. of Human Resources*v. *Hibbs*, 538U. S. 721 (2003), which permitted plaintiffs to sue States for damages when they violate family-care provisions of the FMLA. There, the Court concluded that "requiring state employers to give all employees the opportunity to take family-care leave was 'narrowly targeted at the fault line between work and family—precisely where sex-based overgeneralization has been and remains strongest.'" In other words, the plaintiff was allowed to sueNevada for damages because it had administered neutral family leave polices in such a way that discriminated against its employees on the basis of sex.

Here, however, the Supreme Court distinguished *Hibbs* from the case at hand because "what the family-care provisions have to support them, the self-care provision lacks, namely evidence of a pattern of state constitutional violations accompanied by a remedy drawn in narrow terms to address or prevent those violations." Ultimately, the plurality (4-1-4 vote) determined that because Congress failed to "identify a pattern of constitutional violations and tailor a remedy congruent and proportional to the documented violations," any suit against States under the FMLA's self-care provisions are barred by sovereign immunity.

In forming the plurality opinion, Justice Scalia agreed with this outcome, but for a different reason,

> *I would limit Congress's [14th Amendment] §5 power to the regulation of conduct that itselfviolates the Fourteenth Amendment. Failing to grant state employees leave for the purpose of self-care—or any other purpose, for that matter—does not come close.*