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JONES V. R. R. DONNELLEY & SONS CO., 124 S. CT. 1836 (2004)

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FACTS

When enacted in 1866, 42 U.S.C. § 1981 provided that "all persons . . . shall have the same right in every State and Territory to make and enforce contracts . . . as enjoyed by white citizens."[1] Section 1981 was amended multiple times[2] and significantly amended by the Civil Rights Act of 1991.[3] The 1991 amendment overturned the Supreme Court's decision in *Patterson v. McLean Credit Union,*[4] which held that racial harassment relating to employment conditions "[was] not actionable under § 1981 because . . . [§ 1981] does not apply to conduct which occurs after the formation of a contract."[5] The 1991 amendment created causes of action for discriminatory practices occurring during and after contract formation.[6] The amendment specifically defined the term "make and enforce contracts" to include "the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship."[7]

Similar to many federal statutes, § 1981, as amended, does not prescribe a specific statute of limitations.[8] In 1990, Congress enacted 28 U.S.C § 1658, which prescribed a four-year statute of limitations for civil actions arising under an Act of Congress enacted after December 1, 1990.[9] The issue in this case was whether § 1658's four-year statute of limitations applied to the 1991 amendment.[10]

Edith Jones, an African-American, is a former employee of R. R. Donnelley & Sons Company (Respondent).[11] On November 26, 1994, Ms.

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1 Jones v. R. R. Donnelley & Sons Co., 124 S. Ct. 1836, 1839-40 (2004).

2 *Id.* at 1839. The original version of 42 U.S.C. § 1981 was enacted as § 1 of the Civil Rights Act of 1866. It was amended in minor respects in 1870 and recodified in 1874, but its basic coverage did not change prior to 1991. *Id.*

3 *Id.*

4 Patterson v. McLean Credit Union, 491 U.S. 164 (1989). In *Patterson,* the Court considered whether damages sought by an employee for racial discrimination in employment conditions were actionable under § 1981. *Id.* at 171. Petitioner, a black woman, was employed by respondent for ten years until she was laid off, and she brought an action under § 1981 for workplace discrimination. *Id.* at 169. The Court found that the employee's racial harassment claim was not actionable under § 1981, "because that provision does not apply to conduct which occurs after the formation of a contract and which does not interfere with the right to enforce established contract obligations." *Id.* at 171.

5 *See Id.* at 171 (holding that racial harassment relating to employment conditions was not actionable under § 1981).

6 42 U.S.C. § 1981(b) (2003).

7 Jones v. R. R. Donnelley & Sons Co., 124 S. Ct. 1836, 1840 (2004) (citing 42 U.S.C. § 1981(b) (2003), which states "[f]or the purposes of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.").

8 *Jones,* 124 S. Ct. at 1839.

9 *Id.* at 1841.

10 *Id.* at 1839.

11 *Id.*

Jones, on behalf of herself and a class of similarly situated persons (Petitioners), filed a class action suit against Respondent claiming violations of 42 U.S.C. § 1981, as amended by the Civil Rights Act of 1991.[12] Particularly, Petitioners accused Respondent of creating hostile work environments, discriminatory job promotion, and wrongful termination or denial of transfer when Respondent's Chicago plant closed.[13] These alleged violations are actionable only under the 1991 amended version of § 1981.[14]

Respondent moved for summary judgment, arguing that the applicable state two-year statute of limitations on discrimination cases had run.[15] Petitioners argued that the state statute of limitations did not govern their causes of action because they arose under 28 U.S.C. § 1658, which provides a four-year statute of limitations for all federal laws enacted after December 1, 1990.[16] The United State District Court for the Northern District of Illinois, in an interlocutory order, held that 42 U.S.C. § 1981, as amended, was governed by 28 U.S.C. § 1658; therefore, the statute of limitations had not run on Petitioners' claims because the alleged violations of § 1981 occurred less than four years prior to the filing of claims against Respondent.[17] The United States Court of Appeals for the Seventh Circuit reversed,[18] concluding that § 1658 applies only when an act of Congress creates a wholly new statutory cause of action, and the 1991 amendments did not do so.[19]

The Seventh Circuit's decision, which was consistent with decisions from the Third and Eighth Circuits, reasoned that § 1658 does not apply to a cause of action based on post-1990 amendments to a pre-existing statute.[20] In contrast, the Courts of Appeals for the Sixth and Tenth Circuits have held that § 1658 applies whenever Congress, after December 1990, passes legislation that creates a new cause of action, whether or not the legislation amends a pre-existing statute.[21] The Supreme Court granted certiorari to resolve the circuit split.[22] Specifically, the Court sought to determine

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12 *Id.*

13 *Id.*

14 *Id.* at 1840.

15 *Id.* at 1839.

16 *Id.*

17 *Id.* at 1840-41 (citing Adams v. R. R. Donnelley & Sons Co., 149 F. Supp. 2d 459 (ND Ill. 2001)).

18 *Id.* at 1840 (citing Jones v. R.R. Donnelley & Sons Co., 305 F.3d 717, 728 (7th Cir. 2002) *rev'd*, 124 S. Ct. 1836 (2004)).

19 *Id.* at 1840 (citing Jones v. R.R. Donnelley & Sons Co., 305 F.3d 717, 726 (7th Cir. 2002) *rev'd*, 124 S. Ct. 1836 (2004)).

20 *Id.* at 1841.

21 *Id.* (citing Harris v. Allstate Ins. Co., 300 F.3d 1183, 1190 (10th Cir. 2002); Anthony v. BTR Auto. Sealing Sys., Inc., 339 F.3d 506, 514 (6th Cir. 2003)).

22 *Id.* at 1841.

whether Petitioners' § 1981 causes of action were governed by § 1658 and whether the statute of limitations had run on those claims.[23]

HOLDING

The Supreme Court of the United States held that Petitioners' causes of action, alleging violations of 42 U.S.C. § 1981 as amended by the Civil Rights Act of 1991, are governed by 28 U.S.C. § 1658 and not by the personal injury statute of limitations of the forum state.[24] Therefore, Petitioners' discrimination claims were not barred by the running of the state two-year statute of limitations, and Respondent's motion of summary judgment was denied.[25] The Court reversed and remanded the case to the United States Court of Appeals for the Seventh Circuit.[26]

ANALYSIS

Justice Stevens delivered the unanimous opinion of the Court.[27] The Court began its analysis with the legislative history of § 1981, to determine whether Petitioners' causes of action arose under the 1991 amendments to § 1981 or under § 1981 as originally enacted.[28] The original version of § 1981 provided that all persons within the United States shall have the same right to make and enforce contracts as white citizens.[29] This right to contract did not protect against harassing conduct during and after the formation of the contract.[30] Therefore, the Court found that Petitioners' causes of action for hostile work environment, wrongful discharge, and refusal to transfer did not allege violations of the original version of § 1981 but rather arose solely under the 1991 amendments.[31]

Neither party disputed that the 1991 amendments to § 1981 constitute an "Act of Congress," but the Court found that the meaning of the

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23 *Id.*

24 *Id.* at 1845.

25 *Id.*

26 *Id.* at 1846. The case is subsequently in the settlement process, and on October 21, 2004, Respondent announced that it received preliminary approval of a settlement agreement with Petitioners from Judge Matthew F. Kennelly of the United States District Court for the Northern District of Illinois, Eastern Division. Under the agreement, Respondent will pay $15 million to Petitioners and their lawyers. In the settlement, Respondent does not admit to any of the allegations of wrongdoing and Petitioners must release Respondent from all discrimination claims. Press Release, R.R. Donnelley & Sons Company (October 21, 2004) *available at* http://www.rrdonnelly.com/wwwRRD/News/2004News.asp (last visited Feb. 10, 2005).

27 Jones v. R. R. Donnelley & Sons Co., 124 S. Ct. 1836, 1839 (2004).

28 *Id.* at 1839-40.

29 *Id.*

30 *Id.* at 1840 (citing Patterson v. McLean Credit Union, 491 U.S. 164 (1989)).

31 *Id.*

term "arising under" is ambiguous.[32] The Court explained that there are three possible interpretations of "arising under:" (1) the case could have arisen under § 1981; (2) the case could have arisen under the amendments to § 1981; or (3) the case could have arisen under both the original statute and the amendments.[33] The Court concluded that because § 1658 is facially ambiguous, it must look past the plain text of § 1658 to ascertain Congressional intent.[34]

The Court recognized the difficulties of applying state statutes of limitations to federal causes of action, especially in nationwide class action cases.[35] Specifically, the Court noted that before § 1658's enactment, "[t]he settled practice of borrowing state statutes of limitations generated a host of issues, such as which of the forum State's statutes was the most appropriate, whether the forum State's law or that of the situs of the injury controlled, and when a statute of limitations could be tolled."[36] The Court concluded that these problems prompted Congress to enact § 1658 to provide a uniform federal statute of limitations for claims arising under federal statutes.[37] The Court further mentioned that "[t]he House Report accompanying the final bill confirms that Congress was keenly aware of the problems associated with the practice of borrowing state statutes of limitations, and that a central purpose of § 1658 was to minimize the occasions for that practice."[38]

The Court noted that this interpretation of Congressional intent is best because it alleviates uncertainty created by borrowing state statute of limitations in federal claims, is consistent with the common usage of the word "arise," and is consistent with the Court's interpretation of "arising under," as that phrase is used in statutes governing the scope of federal subject matter jurisdiction.[39] Furthermore, the Court found that "[n]othing in the text or history of § 1658 supports an interpretation that would limit its reach to entirely new sections of the United States Code."[40] The Court reasoned that statutes are routinely amended, and amendments create new causes of action that the original statutes do not cover, and to limit § 1658 to statutes that were completely new and passed after December 1, 1990, would not be in accordance with Congressional intent.[41] Congress intended to set a standard statute of limitations for federal causes of action and, "[w]hat

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32 *Id.* at 1841.
33 *Id.* at 1842.
34 *Id.*
35 *Id.* at 1842-44.
36 *Id.* at 1843.
37 *Id.* at 1844.
38 *Id.*
39 *Id.*
40 *Id.*
41 *Id.* at 1844-45.

matters is the substantive effect of an enactment . . . not the format in which it appears in the code."[42] The Court concluded that a cause of action is governed by § 1658's four-year statute of limitations if the plaintiff's claim against the defendant was made possible by a post-1990 enactment.[43]

Applying its findings to the facts of this case, the Court held that Petitioners' causes of action arose under the 1991 amendments to § 1981, "in the sense that [P]etitioners' causes of action were made possible by [the] [amendments]."[44] The Court noted again that the 1991 amendments to § 1981 overturned *Patterson*,[45] by enlarging the key "make and enforce contracts" language of § 1981 to include acts occurring after contract formation.[46] The Court added that it had previously held that the 1991 amendments expanded "the category of conduct that is subject to § 1981 liability."[47] That holding supports the conclusion that the 1991 amendments constitute an Act of Congress enacted after December 1, 1990, and therefore are governed by 28 U.S.C. § 1658 for statute of limitations purposes.[48]

CONCLUSION

The holding in this case creates two separate statutes of limitations for federal causes of action that arise under a statute as originally enacted and under amendments to that statute. The causes of action under the original statute will have the applicable state statute of limitations while the causes of action arising under the amendment to the statute will be subject to the four-year statute of limitations under § 1658. These different statutes of limitations may have little practical effect on § 1981 claims, as the majority of those claims concern harassment that occurs after contract formation, and therefore fall under the 1991 amendments to § 1981.[49] Nonetheless,

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42 *Id.*

43 *Id.* at 1845.

44 *Id.*

45 Patterson v. McLean Credit Union, 491 U.S. 164, 171(1989).

46 Jones v. R. R. Donnelley & Sons Co., 124 S. Ct. 1836, 1845-46 (2004).

47 *Id.* at 1846 (quoting Rivers v. Roadway Express, Inc., 511 U.S. 298, 303).

48 *Id.*

49 *See* Boyd A. Byers, *Adventures in Topsy-Turvy Land: Are Civil Rights Claims Arising Under 42 U.S.C. § 1981 Governed by the Federal Four-Year "Catch-All" Statute of Limitations, 28 U.S.C. § 1658?*, 38 WASHBURN L.J. 509, 520 (1999) (stating "[t]oday, most section 1981 claims arise in the employment context . . . employment discrimination based on race is also prohibited by Title VII of the Civil Rights Act of 1964 (Title VII) which makes it unlawful to 'discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment. The analysis and proof structure under section 1981 is generally the same as in Title VII. Unlike Title VII, however, a plaintiff is not required to exhaust administrative remedies before bringing a claim under section 1981. Further, section 1981 provides a longer statute of limitations than the 180-or 300-day period to file a charge with the EEOC. Section 1981 thus provides a 'safety net' to race discrimination plaintiffs who miss their Title VII statute of limitations or fail to exhaust Title VII's administrative process.'") (citations omitted).

> [C]ourts would be required to determine what parts of a section 1981 claim arise under the statute as originally written and what parts arise under the amendment and apply a different limitations period to each. In fact, two separate statutes of limitations would exist for every civil statute enacted prior to December 1, 1990, and subsequently amended to create a new claim. This would impose uncertainty on litigants, thereby defeating Congress's intent to simplify the law and clarify the applicable statute of limitations by enacting section 1658.[50]

This problem may be substantial, and is also ironic, as the Court specifically looked to Congressional intent when discussing § 1658 and determined that Congress desired uniformity and clarity regarding statute of limitations issues. This holding creates additional analysis that courts must conduct in determining the correct statute of limitations to apply, and therefore does not further Congress's goal of uniformity or clarity.

Summary and Analysis Prepared By:
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[50] *Id.* at 547-48.