Webster v. Doe
486 U.S. 592 (1988)

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U.S. Supreme Court

Webster v. Doe, 486 U.S. 592 (1988)

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No. 86-1294

Argued January 12, 1988

Decided June 15, 1988

486 U.S. 592

Syllabus

Section 102(c) of the National Security Act of 1947 (NSA) authorizes the Director of the Central Intelligence Agency (CIA), "in his discretion," to terminate the employment of any CIA employee "whenever he shall deem such termination necessary or advisable in the interests of the United States." After respondent, a covert electronics technician in the CIA's employ, voluntarily informed the agency that he was a homosexual, he was discharged by the Director (petitioner's predecessor) under § 102(c). Respondent filed suit against petitioner in Federal District Court for declaratory and injunctive relief, alleging violations of the Administrative Procedure Act (APA), of his rights to property, liberty, and privacy under the First, Fourth, Fifth, and Ninth Amendments, and of his rights to procedural due process and equal protection of the laws under the Fifth Amendment. After the court granted respondent's motion for partial summary

judgment on his APA claim, declining to address his constitutional claims, the Court of Appeals vacated the judgment and remanded. The court agreed with the District Court that judicial review under the APA of petitioner's termination decisions made under § 102(c) of the NSA was not precluded by the provision of the APA, 5 U.S.C. § 701(a), which renders that Act inapplicable whenever "(1) statutes preclude judicial review; or (2) agency action is committed to agency discretion by law." However, the court held that the District Court had erred in its ruling on the merits.

Held:

1. Title 5 U.S.C. § 701(a)(2) precludes judicial review under the APA of the CIA Director's termination decisions under § 102(c) of the NSA. Section 701(a)(2) applies where a statute is drawn in such broad terms that, in a given case, there is no law to apply, and the court would have no meaningful standard against which to judge the agency's exercise of discretion. In allowing termination whenever the Director "shall *deem* [it] necessary or advisable," and not simply when the dismissal *is* necessary or advisable, § 102(c) fairly exudes deference to the Director, and forecloses the application of any meaningful judicial standard of review for assessing a termination decision short of permitting cross-examination of the Director. That § 102(c)'s implementation was "committed to agency

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discretion by law" is also strongly suggested by the overall structure of the NSA, which vests in the Director very broad authority to protect intelligence sources and methods from unauthorized disclosure. Section 102(c) is an integral part of that structure, because the CIA's efficacy, and the Nation's security, depend in large measure on the reliability and trustworthiness of CIA employees. Pp. 486 U. S. 599-601.

2. District Court review of respondent's constitutional claims is not precluded by § 102(c) of the NSA. Petitioner's view that all CIA employment termination decisions, even those based on policies normally repugnant to the Constitution, are given over to the Director's absolute discretion, is not supported by the required heightened showing of clear congressional intent. Although § 102(c) does commit termination decisions to the Director's discretion, 5 U.S.C. §§ 701(a)(1) and (a)(2) remove from judicial review only those determinations specifically identified by Congress or "committed to agency discretion by law." Nothing in § 102(c) demonstrates that Congress meant to preclude consideration of colorable constitutional claims arising out of the Director's actions

pursuant to that section. Petitioner's contention that judicial review of constitutional claims will entail extensive "rummaging around" in the CIA's affairs to the detriment of national security is not persuasive, since claims attacking the CIA's employment policies under Title VII of the Civil Rights Act of 1964 are routinely entertained in federal court, and the District Court has the latitude to control any discovery process in order to balance respondent's need for access to proof against the CIA's extraordinary need for confidentiality. Petitioner's contention that Congress, in the interest of national security, may deny the courts authority to decide respondent's colorable constitutional claims arising out of his discharge and to order his reinstatement if the claims are upheld is also without merit, since Congress did not mean to impose such restrictions when it enacted § 102(c). Even without such prohibitory legislation, traditional equitable principles requiring the balancing of public and private interests control the grant of declaratory or injunctive relief, and, on remand, the District Court should thus address respondent's constitutional claims and the propriety of the equitable remedies sought. Pp. 486 U. S. 601-605.

254 U.S.App.D.C. 282, 796 F.2d 1508, affirmed in part, reversed in part, and remanded.

REHNQUIST, C.J., delivered the opinion of the Court, in which BRENNAN, WHITE, MARSHALL, BLACKMUN, and STEVENS, JJ., joined, and in Parts I and II of which O'CONNOR, J., joined. O'CONNOR, J., filed an opinion concurring in part and dissenting in part, *post,* p. 486 U. S. 605. SCALIA,

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J., filed a dissenting opinion, *post,* p. 486 U. S. 606. KENNEDY, J., took no part in the consideration or decision of the case.