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... Decision in Janus v AFSCME is expected by end of June

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Amendment free speech rights. The group is asking the Court to overturn its unanimous 1977 *Abood* decision, which ruled that union-represented employees who don't want to join the union can't be required to pay for union political speech, but can be required to pay a "fair share" or "agency" fee covering the costs of negotiating contracts and representing workers in grievances.

National Right to Work Legal Foundation attorney William Messenger argued that the *Abood* decision was in error because everything a public sector union does is political speech — since government is the employer. Therefore, union-represented employees who object to the union shouldn't have to pay for any of it, even grievance handling or contract negotiation.

"You're basically arguing, 'do away with unions,'" Justice Sonia Sotomayor told Messenger.

During the hour-long hearing, several Democratic-appointed justices made points about the potential consequences of undoing 40 years of precedent.

"Twenty-three states, the Dis-



Outside the U.S. Supreme Court, about 500 union supporters rallied Feb. 26 with signs that said, "Unrig the System." They greatly outnumbered about 100 union opponents carrying signs saying, "Stand with Mark." Mark Janus is the union-represented Illinois public worker in the case *Janus v AFSCME*.

trict of Columbia, Puerto Rico, all would have their statutes declared unconstitutional at once," said Justice Elena Kagan.

Trump's U.S. solicitor general Noel Francisco, arguing in favor of *Janus*, suggested that a win for *Janus* won't be as disruptive as some unions have said: In the federal sector, no workers are required to make payments to the union, and yet about 80 percent of union-represented federal employees pay union dues voluntarily, Fran-

cisco said. At the Postal Service it's even higher — about 94 percent voluntarily pay union dues.

Meanwhile, lawyers for AFSCME and for Illinois Attorney General's office argued that the fair share fee requirement actually benefits public employers.

"We have an interest at the end of the day in being able to work with a stable, responsible, independent counter-party that's well-resourced enough that it can be a partner with us in the process," said Illinois Solicitor

General David L. Franklin. "There are plenty of studies that show that when unions are deprived of agency fees, they tend to become more militant, more confrontational. They go out in search of short-term gains that they can bring back to their members and say 'stick with us.'"

Illinois and 20 other states have asked the Court to respect states' rights to decide how to manage their own employment relations.

AFSCME attorney David C. Frederick suggested that overturning *Abood* could lead to more public employee strikes: "The key thing that has been bargained for in this contract for agency fees is a limitation on striking. And that is true in many collective bargaining agreements. The fees are the tradeoff. Union security is the tradeoff for no strikes. And so if you were to overrule *Abood*, you can raise an untold specter of labor unrest throughout the country."

The hearing came after several days of protest rallies around the nation by unions and their allies.

The court is expected to rule on the issue by the end of June.

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