

**15-513 STATE FARM FIRE AND CASUALTY COMPANY V. UNITED STATES, EX REL. RIGSBY**

DECISION BELOW: 794 F.3d 457

LOWER COURT CASE NUMBER: 14-60160

QUESTION PRESENTED:

I. Section 3730(b) of the civil False Claims Act ("FCA") permits a private person (*a qui tam* relator) to bring a civil action in the name of the United States Government for violation of section 3729 of the Act. Section 3730(b)(2) requires that a relator's complaint "shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders." 31 U.S.C. § 3730(b)(2).

A three-way circuit split exists as to the standard for determining whether to dismiss a relator's claim for violation of the FCA's seal requirement. Depending on the circuit, such a violation (i) mandates dismissal of the relator's claim, as the Sixth Circuit has held; (ii) mandates dismissal if the violation incurably frustrates the congressional goals served by the seal requirement, as the Second and Fourth Circuits have held; or (iii) warrants dismissal only if the seal violation caused actual harm to the Government pursuant to the balancing test applied by the Fifth Circuit in this case and the Ninth Circuit.

The first question presented is:

What standard governs the decision whether to dismiss a relator's claim for violation of the FCA's seal requirement, 31 U.S.C. § 3730(b)(2)?

II. The FCA imposes liability only for knowing violations of the Act, which the FCA defines as requiring that the defendant "with respect to information" have "actual knowledge of the information" or act in "deliberate ignorance" or "reckless disregard" of "the truth or falsity of the information." See 31 U.S.C. § 3729(b)(1)(A)(i)-(iii). The interpretation of the FCA's scienter requirement is the subject of conflicting decisions by the D.C. and Fourth Circuits and by the Fifth Circuit in this case.

The second question presented is:

Whether and under what standard a corporation or other organization may be deemed to have "knowingly" presented a false claim, or used or made a false record, in violation of section 3729 (a) of the FCA based on the purported collective knowledge or imputed ill intent of employees other than the employee who made the decision to present the claim or record found to be false, where (i) the employee submitting the claim or record independently made the decision to present the claim or record in good faith after reviewing the available information and (ii) there was no causal nexus between the submission of the false claim or record and the purported collective knowledge or imputed ill intent of those other employees?

GRANTED LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 5/31/2016