

17-1201 THACKER V. TENNESSEE VALLEY AUTHORITY

DECISION BELOW: 868 F.3d 979

LOWER COURT CASE NUMBER: 16-15105

QUESTION PRESENTED:

1.

This Court tests the immunity of governmental "sue and be sued" entities (like the Tennessee Valley Authority) under *Fed. Housing Amin. v. Burr*, 309 U.S. 242 (1940). The Court has declined to borrow rules from the Federal Tort Claims Act (FTCA) to narrow that immunity. *FDIC v. Meyer*, 510 U.S. 471 (1994). Did the Eleventh Circuit err by using an FTCA-derived "discretionary-function exception," rather than *Burr*, to immunize the TVA from the plaintiffs' claims?

2.

Did the Eleventh Circuit, in any case, correctly apply the discretionary-function test? Did that court correctly hold that safely raising a downed power line from the Tennessee River constitutes the sort of "policy"-laden discretionary work that this exception was designed to immunize from suit?

GRANTED LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 9/27/2018