

21-984 HELIX ENERGY SOLUTIONS GROUP, INC. V. HEWITT

DECISION BELOW: 15 F.4th 289

LOWER COURT CASE NUMBER: 19-20023

QUESTION PRESENTED:

Respondent was a supervisor on Helix's offshore vessels and was compensated commensurate with his high-ranking position. Every two weeks, Helix paid Respondent at least \$963 for each day that he worked. In all, Respondent earned \$248,053 in 2015, \$218,863 in 2016, and \$143,680 in the eight months he worked for Helix in 2017. After his performance-related release, Respondent sued Helix under the Fair Labor Standards Act ("FLSA"), claiming that he was also entitled to substantially more in retroactive overtime pay.

The FLSA sensibly exempts many highly compensated supervisors from the Act's overtime requirements. Specifically, employees who perform executive duties, earn at least \$100,000 per year, and receive at least \$455 per week paid on a salary basis are "deemed exempt." 29 C.F.R. §541.601(a). It is undisputed that Respondent performed executive duties and met the annual earnings threshold. Nevertheless, a sharply divided *en banc* Fifth Circuit ruled that Respondent was non-exempt and entitled to retroactive overtime pay because he was paid based on a daily rate, not a weekly rate, even though his daily rate was more than twice the weekly minimum. The majority reached that counterintuitive conclusion only by applying a separate provision, 29 C.F.R. §541.604, that the First and Second Circuits have both held inapplicable when determining whether highly compensated employees are exempt.

The question presented is:

Whether a supervisor making over \$200,000 each year is entitled to overtime pay because the standalone regulatory exemption set forth in 29 C.F.R. §541.601 remains subject to the detailed requirements of 29 C.F.R. §541.604 when determining whether highly compensated supervisors are exempt from the FLSA's overtime-pay requirements.

CERT. GRANTED 5/2/2022