



NATIONAL CAMPAIGN TO **RESTORE CIVIL RIGHTS**

WORKERS' RIGHTS

The courts have made it harder and harder for workers to make their workplaces fair and safe. In the wake of a series of recent Supreme Court decisions, state employees have lost the right to go to court to seek compensation for unfair labor practices such as the denial of overtime pay.

In 1992, for example, a group of probation officers in Maine sued the State of Maine, their employer, for violating overtime provisions of the Fair Labor Standards Act. The Maine court ruled against the officers on technical and procedural grounds (that states cannot be sued in a state court), ignoring the fact that these workers were discriminated against.

In 1998, the Supreme Court ruled that workers over 40 years old who are discriminated against, fired, or demoted on the basis of their age cannot recover back pay or other money damages from state employers. This ruling leaves state employees over age 40 without any legal protection from being discriminated against because of their age.

The Supreme Court has also ruled that if a worker is discriminated against, fired, or demoted because of a disability-even if the disability doesn't affect their work-they cannot recover back pay or damages from state employers. After being treated for breast cancer, the University of Alabama's Medical Center transferred and demoted Patricia Garrett from her job as supervising nurse at the Women's Services division of the hospital even though she could still perform her job well. Ms. Garrett took her employer to court. The Supreme Court found that she had been discriminated against, but that state employers should be shielded from disability discrimination laws and that the State of Alabama would not have to give her lost wages. Therefore, Ms. Garrett and others who are discriminated against are no longer able to recover lost wages or any other damages from state-run employers, even though it may be found in court that these employers discriminate.

In March of 2002, the Supreme Court weakened the almost 80-year-old protections of the National Labor Relations Act (NLRA), to make it almost impossible for undocumented workers to enforce their hard-earned workers rights. Joe Castro, an undocumented worker, was fired from his job at Hoffman Plastics when he became involved in union-organizing activities. The Court first found that firing an employee for this reason is a violation of the National Labor Relations Act. Then, because he was undocumented, the decision was reversed. Because of this case, there are now few, if any, legal consequences for an employer who fires an undocumented worker for union activity.

Just this May, in 2007, the Supreme Court further stripped protections to our civil rights in the case *Ledbetter v. Goodyear Tire Co.* While Lilly Ledbetter was hired at the same salary as her male counterparts, she saw their raises outstrip her own over a 19-year period, and she sued for gender discrimination. While she was originally awarded \$3.8 million in damages by a lower

court, after various appeals by Goodyear she received absolutely nothing in the end, due to a technicality about the time period a worker has to file a claim. This case has provided us with yet another distressing example of the rollback of our civil protections as a case of flagrant discrimination in the workplace went entirely without remedy.

For more information on workers' rights and the courts, please contact the National Campaign to Restore Civil Rights at: rollback@nylpi.org.

For detailed case information, please see the below:

- [*Alden v. Maine*](#) (527 U.S. 706, 1999)
- [*Kimmel v. Florida Board of Regents*](#) (528 U.S. 62, 2000)
- *Bd. of Trustees of the Univ. of Alabama v. Garrett* (531 U.S. 356, 2001)
- [*Hoffman Plastic Compounds, Inc. v. National Labor Relations Board*](#) (535 U.S. 137, 2002)