

Jenner & Block Secures Unanimous US Supreme Court Victory in *FBI v. Fikre*

News

March 19, 2024

In a unanimous decision, the US Supreme Court today ruled in favor of our client, Yonas Fikre.

Partners Lindsay Harrison and Annie Kastanek, who represented Mr. Fikre, said, “We are proud to have helped Mr. Fikre secure justice through this unanimous US Supreme Court decision. Mr. Fikre was unconstitutionally placed on the No Fly List and stranded overseas for four years, and today’s victory underscores that the government cannot evade review of its national security policies by selectively mooting out cases.”

In 2013, Mr. Fikre, a law-abiding US citizen, sued the FBI and alleged that his placement on the No Fly List violated his constitutional rights to due process. After four years of litigation, the FBI removed Mr. Fikre from the No Fly List without explanation and promised not to put him on it again “based on the currently available information.” As a result, the government argued that his lawsuit was moot. The Ninth Circuit disagreed, and the United States sought review by the Supreme Court.

Today’s Supreme Court opinion underscores the shortcomings of the government’s argument. “Put simply, the government’s sparse declaration falls short of demonstrating that it cannot reasonably be expected to do again in the future what it is alleged to have done in the past.”

Jenner & Block worked alongside CAIR Legal Defense Fund and the Jenner & Block Supreme Court & Appellate Clinic at the University of Chicago Law School to argue that Mr. Fikre’s case was not moot because the government’s promise did not adequately assure Mr. Fikre that the constitutional violations would not recur. Specifically, the government retained the ability to re-list Mr. Fikre, made no promises that if it did so he would receive advance notice or a hearing, made no commitment that he would not be relisted for the same kinds of conduct that resulted in his first listing, and had not even disclosed the basis for Mr. Fikre’s listing. As a result, Mr. Fikre argued that there remained a live controversy for a court to redress.

The Supreme Court agreed with our argument, writing in their opinion, “Were the rule more forgiving, a defendant might suspend its challenged conduct after being sued, win dismissal, and later pick up where it left off; it might even repeat ‘this cycle’ as necessary until it achieves all of its allegedly ‘unlawful ends.’ A live case or controversy cannot be so easily disguised, and a federal court’s constitutional authority cannot be so readily manipulated.”

The Jenner team includes Washington, DC Office Managing Partner Lindsay Harrison; Appellate Co-Chairs Annie Kastanek and Matt Hellman; Special Counsel Ali Alsarraf; and Associates Benjamin Alter, Maria LaBella, and Sophie Montgomery. Senior Paralegal/Paralegal Coordinator Cheryl Olson and Manger of Docketing Services Tyler Edwards provided valuable assistance.

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