Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

# SUPREME COURT OF THE UNITED STATES

Syllabus

## TRW INC. *v.* ANDREWS

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 00–1045. Argued October 9, 2001—Decided November 13, 2001

The Fair Credit Reporting Act (FCRA or Act) requires credit reporting agencies, *inter alia*, to maintain "reasonable procedures" to avoid improper disclosures of consumer credit information. 15 U. S. C. §1681e(a). The Act's limitations provision prescribes that an action to enforce any liability created under the Act must be brought "within two years from the date on which the liability arises, except that where a defendant has . . . willfully misrepresented any information required under [the Act] to be disclosed to [the plaintiff] and the information . . . is material to [a claim under the Act], the action may be brought at any time within two years after [the plaintiff's] discovery of the misrepresentation." §1681p.

Plaintiff-respondent Adelaide Andrews visited a doctor's office in Santa Monica, California and there filled out a form listing her name, Social Security number, and other basic information. An office receptionist named Andrea Andrews (the Impostor) copied the data and moved to Las Vegas, where she attempted to open credit accounts using Andrews' Social Security number and her own last name and address.

On July 25, September 27, and October 28, 1994, and on January 3, 1995, defendant-petitioner TRW Inc. furnished copies of Andrews' credit report to companies from which the Impostor sought credit. Andrews did not learn of these disclosures until May 31, 1995, when she sought to refinance her home and in the process received a copy of her credit report reflecting the Impostor's activity. She sued TRW for injunctive and monetary relief on October 21, 1996, alleging that TRW had violated the Act by failing to verify, predisclosure of her credit report to third parties, that Adelaide Andrews of Santa Monica initiated the credit applications or was otherwise involved in the un-

Syllabus

derlying transactions. TRW moved for partial summary judgment, arguing, *inter alia*, that the FCRA's statute of limitations had expired on Andrews' claims stemming from TRW's first two disclosures because both occurred more than two years before she brought suit. Andrews countered that the limitations period on those claims did not commence until she discovered the disclosures. The District Court held the two claims time barred, reasoning that §1681p's explicit exception, which covers only misrepresentation claims, precludes judicial attribution of a broader discovery rule to the FCRA. The Ninth Circuit reversed, applying what it considered to be the "general federal rule" that a statute of limitations starts running when a party knows or has reason to know she was injured, unless Congress expressly legislates otherwise.

*Held:*

1. A general discovery rule does not govern §1681p. That section explicitly delineates the exceptional case in which discovery triggers the two-year limitation, and Andrews' case does not fall within the exceptional category. Pp. 6–13.

(a) Even if the Ninth Circuit correctly identified a general presumption in favor of a discovery rule, an issue this case does not oblige this Court to decide, the Appeals Court significantly overstated the scope and force of such a presumption. That court placed undue weight on *Holmberg* v. *Armbrecht*, 327 U. S. 392, 397, which stands for the proposition that equity tolls the statute of limitations in cases of fraud or concealment, but does not establish a general presumption across all contexts. The only other cases in which the Court has recognized a prevailing discovery rule, moreover, were decided in two contexts, latent disease and medical malpractice, "where the cry for [such a] rule is loudest," *Rotella* v. *Wood*, 528 U. S. 549, 555. See *United States* v. *Kubrick*, 444 U. S. 111; *Urie* v. *Thompson*, 337 U. S. 163. The Court has also observed that lower federal courts generally apply a discovery rule when a statute is silent on the issue, but has not adopted that rule as its own. Further, and beyond doubt, the Court has never endorsed the Ninth Circuit's view that Congress can convey its refusal to adopt a discovery rule only by explicit command, rather than by implication from the particular statute's structure or text. Thus, even if the presumption identified by the Ninth Circuit exists, it would not apply to the FCRA, for that Act does not govern an area of the law that cries out for application of a discovery rule and is not silent on the issue of when the statute of limitations begins to run. Pp. 6–7.

(b) Section 1681p's text and structure evince Congress' intent to preclude judicial implication of a discovery rule. Where Congress explicitly enumerates certain exceptions to a general prohibition, addi-

tional exceptions are not to be implied, in the absence of evidence of a contrary legislative intent. *Andrus* v. *Glover Constr. Co.*, 446 U. S. 608, 616–617. Section 1681p provides that the limitation period generally runs from the date "liability arises," subject to a single exception for cases involving a defendant's willful misrepresentation of material information. It would distort §1681p's text to convert the exception into the rule. See *Leatherman* v. *Tarrant County Narcotics Intelligence and Coordination Unit*, 507 U. S. 163, 168. Pp. 7–8.

(c) At least equally telling, reading a general discovery rule into §1681p would in practical effect render the express exception superfluous in all but the most unusual circumstances. In the paradigmatic setting in which a plaintiff requests a credit report and the reporting agency responds by concealing its wrongdoing, the express exception would do no work other than that performed by a general discovery rule. The Court rejects Andrews' and the Government's attempt to give some independent scope to the exception by characterizing it as a codification of the doctrine of equitable estoppel. The scenario constructed by Andrews and the Government to support this characterization is unlikely to occur in reality. In any event, Andrews and the Government concede that the independent function one could attribute to the express exception under their theory would arise only in rare and egregious cases. Adopting their position would therefore render the express exception insignificant, if not wholly superfluous, contrary to a cardinal principle of statutory construction. Pp. 8–11.

(d) Andrews' two additional arguments in defense of the decision below are unconvincing. First, her contention that a discovery rule is expressed in the words framing §1681p's general rule—"date on which the liability arises"—is not compelled by the dictionary definition of "arise" and is unsupported by this Court's precedent. Second, Andrews' reliance on §1681p's legislative history fails to convince the Court that Congress intended *sub silentio* to adopt a general discovery rule in addition to the limited one it expressly provided. Pp. 11–13.

2. Because the issue was not raised or briefed below, this Court does not reach Andrews' alternative argument that, even if §1681p does not incorporate a general discovery rule, "liability" does not "arise" under the FCRA when a violation occurs, but only on a sometimes later date when "actual damages" materialize. The Court notes that the Ninth Circuit has not adopted Andrews' argument and the Government does not join her in advancing it here. In any event, it is doubtful that the argument, even if valid, would aid Andrews in this case. Pp. 13–15.

225 F. 3d 1063, reversed and remanded.

Syllabus

GINSBURG, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, O'CONNOR, KENNEDY, SOUTER, and BREYER, JJ., joined. SCALIA, J., filed an opinion concurring in the judgment, in which THOMAS, J., joined.