SUPREME COURT OF THE UNITED STATES

No. 00–1514

LANCE RAYGOR AND JAMES GOODCHILD, PETITIONERS *v.* REGENTS OF THE UNIVERSITY OF MINNESOTA ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MINNESOTA

[February 27, 2002]

JUSTICE STEVENS, with whom JUSTICE SOUTER and JUSTICE BREYER join, dissenting.

The federal interest in the fair and efficient administration of justice is both legitimate and important. To vindicate that interest federal rulemakers and judges have occasionally imposed burdens on the States and their judiciaries. Thus, for example, Congress may provide for the adjudication of federal claims in state courts, *Testa* v. *Katt,* 330 U. S. 386 (1947), and may direct that state litigation be stayed during the pendency of bankruptcy proceedings, 11 U. S. C. §362(a). In appropriate cases federal judges may enjoin the prosecution of state judicial proceedings.[1] By virtue of the Supremacy Clause in Article VI of the Constitution, in all such cases the federal rules prevail "and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

The "supplemental jurisdiction" provisions of the Judi-

[1] The Anti-Injunction Act, 28 U. S. C. §2283 (1994 ed.), provides:

"A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments."

cial Improvements Act of 1990, 28 U. S. C. §1367 (1994 ed.), impose a lesser burden on the States than each of these examples, and do so only in a relatively narrow category of cases—those in which both federal- and state-law claims are so related "that they form part of the same case or controversy." Adopting a recommendation of the Federal Courts Committee, Congress in §1367(a) overruled our misguided decision in *Finley* v. *United States,* 490 U. S. 545 (1989), and expressly authorized federal courts to entertain such cases even when the state-law claim is against a party over whom there is no independent basis for federal jurisdiction.[2]

Subsection (d) of §1367 responds to the risk that the plaintiff's state-law claim, even though timely when filed as a part of the federal lawsuit, may be dismissed after the state period of limitations has expired. To avoid the necessity of duplicate filings, it provides that the state statute shall be tolled while the claim is pending in federal court and for 30 days thereafter.[3] The impact of this provision on the defendant is minimal, because the timely filing in federal court provides it with the same notice as if a duplicate complaint had also been filed in state court.

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[2] Title 28 U. S. C. §1367(a) provides:

"Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties."

[3] Section 1367(d) provides:

"The period of limitations for any claim asserted under subsection (a) . . . shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period."

The tolling of statutes of limitations is, of course, an ancient[4] and widespread practice.[5] Some federal tolling statutes apply only to federal limitations periods,[6] but others apply to state statutes as well.[7] All of these statutes are broadly worded and none of them excludes any

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[4] When an equity bill was dismissed to permit the commencement of an action at law, it was the practice of the English courts to consider the statute of limitations tolled during the pendency of the suit in equity. See, *e.g.*, *Anonimous*, 1 Vern. 73, 73–74, 23 Eng. Rep. 320, 320–321 (Ch. 1682) ("[I]f a man sued in Chancery, and pending the suit here, the statute of limitations attached on his demand, and his bill was afterwards dismissed, as being a matter properly determinable at common law: in such case . . . [the court] would not suffer the statute to be pleaded in bar to his demand"); see also *Sturt* v. *Mellish*, 2 Atk. 610, 615, 26 Eng. Rep. 765, 767 (Ch. 1743); *MacKenzie* v. *Marquis of Powis*, 7 Brown 282, 288, 3 Eng. Rep. 183, 187 (H. L. 1737).

[5] Equitable tolling is a background rule that informs our construction of federal statutes of limitations, *Holmberg* v. *Armbrecht*, 327 U. S. 392, 397 (1946), including those statutes conditioning the Federal Government's waiver of immunity to suit, *Irwin* v. *Department of Veterans Affairs*, 498 U. S. 89, 95–96 (1990) ("[T]he same rebuttable presumption of equitable tolling applicable to suits against private defendants should also apply to suits against the United States"). The rule also is generally applied by state courts, such as the Minnesota courts adjudicating claims under the Minnesota Human Rights Act (MHRA). See, *e.g.*, *Ochs* v. *Streater*, *Inc.*, 568 N. W. 2d 858, 860 (Minn. App. 1997).

[6] See, *e.g.,* 8 U. S. C. §1182(a)(9)(B)(iv) (tolling an alien's period of unlawful presence in the United States during certain immigration proceedings); 28 U. S. C. §2263(b) (1994 ed., Supp. V) (tolling the statute of limitations on filing for habeas corpus relief); 29 U. S. C. §1854(f) (1994 ed., Supp. V) (tolling the statute of limitations on actions for bodily injury or death to a migrant farmworker).

[7] See, *e.g.*, 11 U. S. C. §108 (tolling during bankruptcy); 50 U. S. C. App. §525 (1994 ed.) (Soldiers' and Sailors' Civil Relief Act of 1940) (tolling during military service); 15 U. S. C. §6606(e)(4) (Y2K Act) (tolling during notice and remediation period for Year 2000 related claims); cf. 42 U. S. C. §9658 (1994 ed.) (Comprehensive Environmental Response, Compensation, and Liability Act of 1980) (setting uniform limitations-period commencement date in suits under state law for damages due to hazardous release exposure).

special category of defendants. The plain text of all these statutes, including §1367, applies to cases in which a State, or an arm of a State, is named as a defendant. Thus, as the Minnesota Court of Appeals correctly held, "the plain language of subsection (d) allows tolling of any claim dismissed by a federal district court, whether dismissed on Eleventh Amendment grounds or at the discretion of the federal district court under subsection (c)."[8]

The Minnesota Supreme Court reversed, because it considered this Court's holding in *Alden* v. *Maine*, 527 U. S. 706 (1999), to compel the view that §1367(d) was an invalid attempt by Congress to make the State of Minnesota subject to suit in state court without its consent.[9] Unlike the State in *Alden*, however, Minnesota has given its consent to be sued in its own courts for alleged violations of the MHRA within 45 days of receipt of a notice letter from the State Department of Human Rights. The question whether that timeliness condition may be tolled during the pendency of an action filed in federal court within the 45-day period is quite different from the question whether Congress can entirely abrogate the State's sovereign immunity defense. For the Court's Eleventh Amendment jurisprudence concerns the question *whether* an unconsenting sovereign may be sued, rather than *when* a consenting sovereign may be sued.

The Court recognized this crucial distinction in *Irwin* v. *Department of Veterans Affairs*, 498 U. S. 89 (1990), a case in which the application of equitable tolling to a waiver of federal sovereign immunity was at issue. Although the Court required the Government's assent as to whether it may be sued to be "unequivocally expressed," it presumed

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[8] 604 N. W. 2d 128, 132–133 (Minn. App. 2000).

[9] See 620 N. W. 2d 680, 686 (Minn. 2001) ("[W]e read *Alden* to require that the University's waiver of immunity be limited to the [45-day limitations period]").

the rule of equitable tolling applied once assent was established because tolling would "amoun[t] to little, if any, broadening of the congressional waiver." *Id.*, at 95. The Court reached this holding despite the inclusion in the waiver provision of a limitations period shorter than the one for suits against private parties.

The waiver at issue in this case is more unequivocally expressed than the one in *Irwin*. Minnesota has consented to suit under the MHRA by agreeing to be treated in the same manner as a private employer.[10] The 45-day limitations period is thus applicable to *any* suit under the MHRA, not only those against state entities. In light of such a clear consent to suit, unencumbered by any special limitations period, it is evident that tolling under §1367(d) similarly "amounts to little, if any, broadening of the [legislature's] waiver."[11] *Ibid*. Given the fact that the

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[10] See Minn. Stat. §363.01, subds. 17 and 28 (2000) (defining "employer" to include private entities and "the state and its departments, agencies, and political subdivisions").

[11] It is true enough that we "ha[ve] never held that waivers of a State's immunity presumptively include all federal tolling rules," *ante*, at 9. Of course, we have never held to the contrary, either. But surely our federal sovereign immunity cases shed great light on the question, given our similarly strict analyses of waivers in federal and state sovereign immunity cases. See *College Savings Bank* v. *Florida Prepaid Postsecondary Ed. Expense Bd.*, 527 U. S. 666, 682 (1999) ("[I]n the context of *federal* sovereign immunity—obviously the closest analogy to the present case—it is well established that waivers are not implied. . . . We see no reason why the rule should be different with respect to state sovereign immunity" (citation omitted)).

As the Court observes, *ante*, at 8, our federal sovereign immunity cases recognize that a limitations period may serve as a central condition of waiver. The teaching of *Irwin*, however, is that even when a limitations period is a "condition to the waiver of sovereign immunity and thus must be strictly construed," 498 U. S., at 94, application of tolling to that period is presumptively permissible. I can "see no reason why the rule should be different with respect to state sovereign immunity." *College Savings Bank*, 527 U. S., at 682.

timely filing in Federal Court served the purposes of the 45-day period,[12] it seems to me quite clear that the application of the tolling rule does not raise a serious constitutional issue.[13]

It is true, of course, that the federal tolling provision, like any other federal statute that pre-empts state law, "affects the federal balance" even though it does not "constitut[e] an abrogation of state sovereign immunity." *Ante*, at 10. But that consequence is surely not sufficient to exclude state parties from the coverage of statutes of general applicability like the Bankruptcy Code, the Soldiers' and Sailors' Civil Relief Act of 1940, or any other federal statute whose general language creates a conflict with a pre-existing rule of state law.[14] In my judgment, the specific holding in *Alden* v. *Maine* represented a serious distortion of the federal balance intended by the Framers of our Constitution. If that case is now to provide the basis for a rule of construction that will exempt state parties from the coverage of federal statutes of general applicability, whether or not abrogation of Eleventh Amendment immunity is at stake, it will foster unintended and unjust consequences and impose serious bur-

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[12] The university received notice of the claim, and was able to take part fully in the prosecution of the litigation by engaging in extensive discovery and participating in mediation.

[13] Indeed, as an alternative basis for its decision, the Minnesota Court of Appeals concluded that equitable tolling was appropriate. See 604 N. W. 2d, at 133–134. The Minnesota Supreme Court did not disagree with the conclusion that equitable tolling was permissible, but rather found no abuse of discretion in the trial court's refusal of such tolling. See 620 N. W. 2d, at 687.

[14] See, *e.g.*, *Geier* v. *American Honda Motor Co.*, 529 U. S. 861 (2000) (finding pre-emption of common law tort action by National Traffic and Motor Vehicle Safety Act of 1966); *Boggs* v. *Boggs*, 520 U. S. 833 (1997) (finding pre-emption of state community property laws by Employee Retirement Income Security Act of 1974).

dens on an already-overworked Congress.[15] Indeed, that risk provides an additional reason for reexamining that misguided decision at the earliest opportunity.

Accordingly, I respectfully dissent.

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[15] It may also impose serious burdens on already-overworked state courts. Claims brought under state antidiscrimination statutes such as the MHRA, for example, will often be bound up with claims under similar federal statutes, such as 42 U. S. C. §1983 (1994 ed., Supp. V), Title VII of the Civil Rights Act of 1964, 42 U. S. C. §2000e *et seq.* (1994 ed. and Supp. V), and the Age Discrimination in Employment Act (ADEA), 29 U. S. C. §621 *et seq.* (1994 ed. and Supp. V). The state courts have concurrent jurisdiction over these federal statutes. *Felder* v. *Casey*, 487 U. S. 131, 139 (1988) (§1983); *Yellow Freight System, Inc.* v. *Donnelly*, 494 U. S. 820 (1990) (Title VII); 29 U. S. C. §626(c)(1) (ADEA). As a result of the Court's reading of §1367(d), many litigants with such mixed claims against state entities may decide to file their entire suits in state court. By doing so, they avoid the cost and confusion of duplicate filings. They also eliminate the risk that a time bar will attach to a claim dismissed from federal court on Eleventh Amendment grounds, which might occur even when, as in this case, Eleventh Amendment immunity was not evident at the time the suit was filed. Thus, in attempting to preserve the "balance between the States and the Federal Government," *ante*, at 9, the Court risks upending that balance by removing from the state courts the assistance of the federal courts in adjudicating many claims.