US Supreme Court

Case: *Farrar v. Hobby*, 506 U.S. 103, 113 S.Ct. 566, 121 L.Ed.2d 494 (1992)
Date: Dec. 14, 1992 **Votes:**

Opinion: Thomas **Concurrence:** O'Connor
Concurrence/Dissents: White (with Blackmun, Stevens, Souter)

Tags: Attorney fees, civil rights case, prevailing plaintiff, reasonable fee, nominal damages, recovery

Question(s) Presented: Is civil rights plaintiff who gained only nominal damages still eligible for statutory attorney fee award?

Holdings: "the prevailing party inquiry does not turn on the magnitude of the relief obtained" (113/574). Plaintiff is indeed "prevailing" party; Circuit Court withholding of attorney fees is affirmed, though.

Rationale:

- "to qualify as a prevailing party, a civil rights plaintiff must obtain at least some relief on the merits of his claim. The plaintiff must obtain an enforceable judgment against the defendant from whom fees are sought . . . or comparable relief through a consent decree or settlement." (111/573)
- Whether damages are compensatory or nominal, plaintiff is still the "prevailing" party, because something has been awarded by court (and so the legal relationship between plaintiff and defendant has been altered);
- extent of recovery is a controlling factor in what is a "reasonable" attorney fee award.

Facts: Owners of a school for troubled teens indicted for murder; sued government officials for various constitutional violations. Requested damages of $17 million. Hobby was convicted of conspiring against plaintiff, but the jury thought the damage he did was minimal.

Legal History, Prior Appeals & Trial Court Input:

- **District Court:** ordered that there would be no damages and suit dismissed.
- **Circuit Court:** reversed in part, ordering nominal damages.
- **District Court:** awarded attorney fees ($280,000).
- **Circuit Court:** divided panel: the plaintiff only received nominal damages, and so isn't the "prevailing" party. Therefore, reversed attorney fee award. ("When the sole relief sought is money damages, we fail to see how a party 'prevails' by winning one dollar out of the $17 million requested." (*Estate of Farrar v. Cain*, 941 F.2dd 1131, at 1315 (1991))

Attorneys' Arguments:

Appeals to Statute & Precedent:

- **42 U.S.C. § 1988: Civil Rights Attorney's Fees Awards Act (1976)**
- ***Texas State Teachers Assn. v. Garland Independent School District*, 489 U.S. 782, 109 S.Ct. 1486, 103 L.Ed.2d 866 (1989):** re. award of attorney fees when damages are nominal. "Prevailing party" definition: legal relationship between plaintiff & defendant has changed because of the resolution of the dispute. Some victories are so insignificant or "technical" (*de minimis*) that they don't deserve a fee award.
- ***Hanrahan v. Hampton*, 446 U.S. 754, 758, 100 S.Ct. 1987, 1989, 64 L.Ed.2d 670 (1980):** defining prevailing parties for attorney fee award purposes if they succeed on any significant issue in litigation and receive some judicial relief.
- ***Hensley v. Eckerhart* (US 1983):** on prevailing party; degree of success obtained is a factor—don't reimburse for everything, if some claims did not prevail on the merits.
- ***Kentucky v. Graham*, 473 U.S. 159 (1985):** if defendant has not been prevailed against, is not responsible for attorney fees.
- ***Hewitt v. Helms*, 482 U.S. 755, 107 S.Ct. 2672, 96 L.Ed.2d 654 (1987):** if plaintiff loses on all claims, is it even possible that they are "prevailing plaintiff"? No, because had not obtained judicial relief.
- ***Rhodes v. Stewart*, 488 U.S. 1, 109 S.Ct. 202, 102 L.Ed.2d 1 (1988):** even a declaratory judgment in party's favor does not mean he is the "prevailing plaintiff," unless judgment changes or controls the behavior of the defendant toward the plaintiff. (In this case, no such changes could have happened, because the parties had either died or been released from the relevant prison context.)
- ***Riverside v. Rivera* (US 1986)** (Powell, J., concurring in judgment): it's smart to consider proportion of damages to amount sought.

Dicta/Discussion:

- "no compensatory damages may be awarded in a § 1983 suit absent proof of actual injury." (112)
- But if there's a violation of procedural due process found, party is eligible for nominal damages, even if no injury was proven. (*See Carey v. Piphus*, 435 U.S. 247 (1978))
- "No material alteration of the legal relationship between the parties occurs until the plaintiff becomes entitled to enforce a judgment, consent decree, or settlement against the defendant." (113/574) – this includes an award of nominal damages, which is also something that alters the relationship (defendant wouldn't have paid that $1 otherwise).
- "Although the 'technical' nature of a nominal damages award or any other judgment does not affect the prevailing party inquiry, it does bear on the propriety of fees awarded under § 1988." (114/574)
    - Reasonableness rests on the degree of success obtained
    - District court did a strict lodestar without weeding out time spent on unsuccessful litigation
- **"Having considered the amount and nature of damages awarded, the court may lawfully award low fees or no fees without reciting the 12 factors bearing on reasonableness"** (see *Hensley* at 430, no. 3)
- "In some circumstances, even a plaintiff who formally 'prevails' under § 1988 should receive no attorney's fees at all." (115)

- E.g., if plaintiff asks for compensatory but only gets nominal damages
- "the award of nominal damages also highlights the plaintiff's failure to prove actual, compensable injury." (115)
- "When a plaintiff recovers only nominal damages because of his failure to prove an essential element of his claim for monetary relief . . . the only reasonable fee is usually no fee at all." (115)
- "In an apparent failure to heed our admonition that fee awards under § 1988 were never intended to 'produce windfalls to attorneys,' . . . the District Court awarded $280,000 in attorney's fees without 'considering the relationship between the extent of success and the amount of the fee award.'" (115-116)

Concurrence: O'Connor (wants to explain why no fee was deserved)

- "If ever there was a plaintiff who deserved no attorney's fees at all, that plaintiff is Joseph Farrar." (116/575)
- Okay, he met the minimal definition of "prevailing plaintiff" with that nominal damages award.
  - "One dollar is not exactly a bonanza, but it constitutes relief on the merits." (116/576)
- But after *Garland*, a *de minimis* award is too insignificant to meet with attorney fee recovery.
  - **"When the plaintiff's success is purely technical or *de minimis*, no fees can be awarded. Such a plaintiff either has failed to achieve victory at all, or has obtained only a Phyrrhic victory for which the reasonable fee is zero."** (117/576)
  - So don't even bother with the usual calculations.
- "Precedent confirms what common sense suggests. It goes without saying that, if the *de minimis* exclusion were to prevent the plaintiff from obtaining prevailing party status, fees would have to be denied. . . And if the *de minimis* victory exclusion is in fact part of the reasonableness inquiry, . . . summary denial of fees is still appropriate. We have explained that even the prevailing plaintiff may be denied fees if 'special circumstances would render [the] award unjust' [citing *Hensley*] . . . **While that exception to fee awards has often been articulated separately from the reasonableness inquiry, sometimes it is bound up with reasonableness: It serves as a short-hand way of saying that, even before calculating a lodestar or wading through all the reasonableness factors, it is clear that the reasonable fee is no fee at all. After all, where *the only* reasonable fee is no fee, an award of fees would be unjust; conversely, where a fee award would be unjust, the reasonable fee is no fee at all."** (118/576-577)
- Discusses Congress's intent to "deny[] fees to Pyrrhic victors" (119/577)
- "Chimerical accomplishments are simply not the kind of legal change that Congress sought to promote in the fee statute." (119/577)
- "he asked for a bundle and got a pittance" (120/578)
- "That is not to say that *all* nominal damage awards are *de minimis*. Nominal relief does not necessarily a nominal victory make." (121/578)
  - Also look at significance of legal victory, accomplishment of public goal, etc.

- "Nor is the conduct to be deterred apparent from the verdict, which even petitioners acknowledge is 'regrettably obtuse.' . . . Such a judgment cannot deter misconduct any more than a bolt of lightning can; its results might be devastating, but it teaches no valuable lesson because it carries no discernible meaning." (122/578)
- "Because the Court of Appeals gave Joseph Farrar everything he deserved—nothing—I join the Court's opinion affirming the judgment below." (122/578)

Concurrence/Dissent: White (et al.)

- Actually, the AMOUNT of the reasonable attorney fee award was never in question on this appeal; it was all about whether he qualified as a prevailing plaintiff under § 1988. So we have no right to say NOTHING was the appropriate award. Trial court should figure that out on remand.
- "Civil rights cases often are complex, and we therefore have committed the task of calculating attorney's fees to the trial court's discretion for good reason." (123/579)

Commentary:

<u>Advice to Lower Courts</u>

- Once you establish who's a "prevailing plaintiff" –
    - (because legal relationship has changed and
    - there is some kind of judicial relief involved)
- Don't even bother calculating a fee, if the damages were nominal…
    - …unless you can point to some public benefit or nonpecuniary redress of wrongs.
- Although attorney fees should normally be awarded in civil rights cases, they should not be awarded if they are "unjust" (after *Henley*);
    - therefore, since the most reasonable fee in the case of nominal damages is "no fee at all," it would be unjust to award a fee when plaintiff has only recovered $1.