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NASA v. Nelson

Case Information

General Information about the case

Docket Number

09-320

Date Granted

03/08/2010

Appealed From

United States Court of Appeals for the Ninth Circuit

Attorneys

Attorney information for this case

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Party name: Robert M. Nelson, et al.

Related Links

- Doe, Buck, et al. v. Chao, Elaine (Labor Secy.) (02/24/2004)

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Court will rule on informational privacy question (March 8, 2010)

Case Reference:
NASA v. Nelson

The Supreme Court has agreed to decide whether background checks of federal contractors at a NASA lab violate privacy rights or serve an imperative national security interest.

The case concerns 2004 Bush administration antiterrorism initiative that extended background checks required for many government jobs to contract employees, including scientists and engineers at the Jet Propulsion Laboratory, a research facility operated by the California Institute of Technology under a contract with NASA.

Twenty-eight lab employees, who do not have security clearances and are not involved in classified or military activities, filed suit over what they considered to be overly intrusive background checks.

A three-judge panel on the 9th U.S. Circuit Court of Appeals ordered the background checks halted while the case continued. A divided court declined an en banc review.

In dissent, Judge Andrew Kleinfeld wrote that the court's decision was "likely to impair national security" by forbidding the government "from doing what any sensible private employer would do."

Chief Judge Alex Kozinski urged the high court to take the case.

On March 8, 2010, the U.S. Supreme Court agreed to grant review.

Question presented: Whether the government violates a federal contract employee's constitutional right to informational privacy by (1) asking in the course of a background investigation whether the employee has

received counseling or treatment for illegal drug use that has occurred within the past year and/or (2) asking the employee's designated references for any adverse information that may have a bearing on the employee's suitability for employment at a federal facility — when the employee's and reference's responses are used only for employment purposes, and the information obtained is protected under the Privacy Act, 5 U.S.C. § 552a.

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