

Supreme Court to Decide if Government Can Be Sued for Credit Reporting Errors

November 6, 2023 - In a significant legal battle set for a hearing today, the Supreme Court will determine whether the U.S. government can be taken to court for breaking the rules laid out in the Fair Credit Reporting Act.

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The case originated in 2020 when Reginald Kirtz, a citizen, filed a lawsuit against the Department of Agriculture Rural Housing Development Housing Service. Kirtz claimed that the government had harmed his credit score by incorrectly saying he still owed money on a loan from the US Department of Agriculture, even though he had already paid it off.

Kirtz reported this error to Trans Union, a credit reporting company. He expected the government, specifically the Department of Agriculture (USDA), to fix this mistake as required by the Fair Credit Reporting Act. But when the USDA didn't correct the error, Kirtz said this action violated the FCRA. So Kirtz filed suit. Here's what's at the heart of the dispute:

Kirtz believes the Fair Credit Reporting Act obliges anyone, including government agencies, to investigate and correct disputed information that they report to credit agencies.

The USDA, on the other hand, argues that the FCRA doesn't make it clear that Congress meant to allow people to sue the government for not following the rules.

Kirtz lost the suit at the district court level but the U.S. Court of Appeals for the 3rd Circuit reversed that decision, allowing Kirtz's lawsuit to go forward. They pointed to a crucial detail in the FCRA. It says that lawsuits can be brought against any "person" who fails to follow the law. The definition of "person" in the FCRA includes "any government or governmental subdivision or agency." The Appeals Court ruled that since the federal government is the largest employer and creditor in the country, it makes sense to allow lawsuits against it when it violates the FCRA. This, they believe, aligns with Congress's goal of making sure that credit reporting is accurate and fair.

The USDA appealed that decision and now, the Supreme Court will have the final say on whether the U.S. government can be taken to court for not following the rules of the Fair Credit Reporting Act. This case could have far-reaching implications for how the government deals with credit reporting errors in the future. The court should reach a decision by

June of next year.

by Jim Malmberg

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