SUPREME COURT OF THE UNITED STATES

No. 91–990

DALE FARRAR AND PAT SMITH, CO-ADMINISTRATORS OF ESTATE OF JOSEPH D. FARRAR, DECEASED, PETITIONERS *v.* WILLIAM P. HOBBY, JR.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

[December 14, 1992]

JUSTICE WHITE, with whom JUSTICE BLACKMUN, JUSTICE STEVENS, and JUSTICE SOUTER join, concurring in part and dissenting in part.

We granted certiorari in this case to decide whether 42 U. S. C. §1988 entitles a civil rights plaintiff who recovers nominal damages to reasonable attorney's fees. Following our decisions in *Texas State Teachers Assn.* v. *Garland Independent School Dist.*, 489 U. S. 782 (1989), *Hewitt* v. *Helms*, 482 U. S. 755 (1987), *Hensley* v. *Eckerhart*, 461 U. S. 424 (1983), and *Carey* v. *Piphus*, 435 U. S. 247 (1978), the Court holds that it does. With that aspect of today's decision, I agree. Because Farrar won an enforceable judgment against respondent, he has achieved a "material alteration" of their legal relationship, *Garland, supra,* at 792–793, and thus he is a "prevailing party" under the statute.

However, I see no reason for the Court to reach out and decide what amount of attorney's fees constitutes a reasonable amount in this instance. That issue was neither presented in the petition for certiorari nor briefed by petitioners. The opinion of the Court of Appeals was grounded exclusively in its determination that Farrar had not met the threshold requirement under §1988. At no point did it purport to decide what a reasonable award should be if Farrar was a prevailing party.

It may be that the District Court abused its discretion and misapplied our precedents by belittling the significance of the amount of damages awarded in ascertaining petitioners' fees. Cf. *Hensley*, *supra*, at 436. But it is one thing to say that the court erred as a matter of law in awarding $280,000; quite another to decree, especially without the benefit of petitioners' views or consideration by the Court of Appeals, that the only fair fee was no fee whatsoever.[1]

Litigation in this case lasted for more than a decade, has entailed a 6-week trial and given rise to two appeals. 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. See, *e.g., Hensley, supra,* at 436–437; *Garland, supra,* at 789–790; *Blanchard* v. *Bergeron*, 489 U. S. 87, 96 (1989). Estimating what specific amount would be reasonable in this particular situation is not a matter of general importance on which our guidance is needed. Short of holding that recovery of nominal damages *never* can support the award of attorney's fees—which, clearly, the majority does not, see *ante,* at 11—the Court should follow its sensible practice and remand the case for reconsideration of the fee amount. Cf. *FTC* v. *Anheuser-Busch, Inc.*, 363 U. S. 536, 542 (1960). Indeed, respondent's counsel all but conceded at oral argument that, assuming the Court found Farrar to be a prevailing party, the question of reasonableness should be addressed on remand. See Tr. of Oral Arg.

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[1]In his brief to the Fifth Circuit, respondent did not argue that petitioners should be denied all fees even if they were found to be prevailing parties. Rather, he asserted that the District Court misapplied the law by awarding “excessive” fees and requested that they be reduced. See Brief for Defendant-Appellant in No. 90–2830, pp. 38–42.

31–32.

I would vacate the judgment of the Court of Appeals and remand the case for further proceedings. Accordingly, I dissent.