

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR v. NEWPORT NEWS SHIPBUILDING & DRY DOCK CO. ET AL.
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
No. 93-1783. Argued January 9, 1995—Decided March 21, 1995

The Director of the Labor Department's Office of Workers' Compensation Programs petitioned the Court of Appeals for review of a Benefits Review Board decision that, *inter alia*, denied Jackie Harcum full-disability compensation under the Longshore and Harbor Workers' Compensation Act (LHWCA). Harcum did not seek review and, while not opposing the Director's pursuit of the action, expressly declined to intervene on his own behalf in response to an inquiry by the court. Acting *sua sponte*, the court concluded that the Director lacked standing to appeal the benefits denial because she was not "adversely affected or aggrieved" thereby within the meaning of §21(c) of the Act, 33 U. S. C. §921(c).

Held: The Director is not "adversely affected or aggrieved" under §921(c). Pp. 3-14.

(a) Section 921(c) does not apply to an agency acting as a regulator or administrator under the statute. This is strongly suggested by the fact that, despite long use of the phrase "adversely affected or aggrieved" as a term of art to designate those who have standing to appeal a federal agency decision, no case has held that an agency, without benefit of specific authorization to appeal, falls within that designation; by the fact that the United States Code's general judicial review provision, 5 U. S. C. §551(2), which employs the phrase "adversely affected or aggrieved," specifically excludes agencies from the category of persons covered; and by the clear evidence in the Code that when an agency in its governmental capacity *is* meant to have standing, Congress says so, see, *e.g.*, 29 U. S. C.

§§660(a) and (b). While the text of a particular statute could make clear that "adversely affected or aggrieved" is being used in a peculiar sense, the Director points to no such text in the LHWCA. Pp. 3-9.

DIRECTOR, OWCP v. NEWPORT NEWS SHIPBUILDING

Syllabus

(b) Neither of the categories of interest asserted by the Director demonstrates that ``adversely affected or aggrieved" in this statute must have an extraordinary meaning. The Director's interest in ensuring adequate payments to claimants is insufficient. Agencies do not automatically have standing to sue for actions that frustrate the purposes of their statutes; absent some clear and distinctive responsibility conferred upon the agency, an ``adversely affected or aggrieved" judicial review provision leaves private interests (even those favored by public policy) to be vindicated by private parties. *Heckman v. United States*, 224 U. S. 413; *Moe v. Confederated Salish and Kootenai Tribes of Flathead Reservation*, 425 U. S. 463; *Pasadena City Bd. of Ed. v. Spangler*, 427 U. S. 424; and *General Telephone Co. of Northwest v. EEOC*, 446 U. S. 318, distinguished. Also insufficient is the Director's asserted interest in fulfilling important administrative and enforcement responsibilities. She fails to identify any specific statutory duties that an erroneous Board ruling interferes with, reciting instead conjectural harms to abstract and remote concerns. Pp. 9-14.

8 F. 3d 175, affirmed.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, O'CONNOR, KENNEDY, SOUTER, THOMAS, and BREYER, JJ., joined. GINSBURG, J., filed an opinion concurring in the judgment.