Syllabus

SUPREME COURT OF THE UNITED STATES

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BARNHART, COMMISSIONER OF SOCIAL SECURITY *v.* PEABODY COAL CO. ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 01–705. Argued October 8, 2002—Decided January 15, 2003*

Under the Coal Industry Retiree Health Benefit Act of 1992 (Coal Act or Act), the Commissioner of Social Security "shall, before October 1, 1993," assign each coal industry retiree eligible for benefits under the Act to an extant operating company—a "signatory operator"—or a related entity, which shall then be responsible for funding the beneficiary's benefits, 26 U. S. C. §9706(a). Assignment to a signatory operator binds the operator to pay an annual premium to the United Mine Workers of America Combined Benefit Fund (Combined Fund), which administers the benefits. The premium has up to three components, a health benefit premium, a death benefit premium, and a premium for retirees who are not assigned to a particular operator, but whose benefits are paid from the Combined Fund as if they were assigned. An important object of the Coal Act was providing stable funding for the health benefits of such "orphan retirees." Although signatory operators will only be required to pay an unassigned beneficiaries premium if funding from the United Mine Workers of America 1950 Pension Plan (UMWA Pension Plan) and the Abandoned Mine Land Reclamation Fund (AML Fund) runs out, each signatory operator's unassigned beneficiaries premium is based on the number of its assigned beneficiaries, such that the signatory with the most assigned retirees would be required to cover the greatest share of the benefits payable to unassigned beneficiaries. In two separate actions

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*Together with *Barnhart, Commissioner of Social Security* v. *Bellaire Corp. et al.* (see this Court's Rule 12.4), and No. 01–715, *Holland et al.* v. *Bellaire Corp. et al.,* also on certiorari to the same court.

before different District Courts, respondent companies challenged initial assignments made to them after the October 1, 1993, deadline, claiming that the date set a time limit on the Commissioner's assignment power, so that a beneficiary not assigned on that date must be left unassigned for life. If the challenged assignments are void, the corresponding benefits must be financed by transfers from the UMWA Pension Plan, the AML Fund, and, if necessary, unassigned beneficiaries premiums paid by signatory operators to whom timely assignments were made. The companies obtained summary judgments, and the Sixth Circuit affirmed.

Held: Initial assignments made after October 1, 1993, are valid despite their untimeliness. Pp. 7–22.

(a) The companies' contention that the Commissioner's failure is "jurisdictional," so that affected beneficiaries may never be assigned and their former employers may go scot free, is as unsupportable as it is counterintuitive. Pp. 7–21.

(1) This Court has rejected an argument comparable to the companies' position that couching the duty in terms of the mandatory "shall" together with a specific deadline leaves the Commissioner with no authority to make an initial assignment on or after October 1, 1993. In *Brock* v. *Pierce County,* 476 U. S. 253, the Court found that the Secretary of Labor's 120-day deadline to issue a final determination on a complaint of federal grant fund misuse was meant to spur him to action, not limit the scope of his authority, so that his untimely action was valid. Nor, since *Brock,* has this Court ever construed a provision that the Government "shall" act within a specified time, without more, as a jurisdictional limit precluding action later. If a statute does not specify a consequence for noncompliance with statutory timing provisions, federal courts will not ordinarily impose their own coercive sanction. *United States* v. *James Daniel Good Real Property,* 510 U. S. 43, 63. Hence the oddity of a claim at this date that late official action should shift financial burdens from otherwise responsible private purses to the public fisc, let alone siphon money from funds set aside for a different public purpose, like the AML Fund for land reclamation. The point would be the same even if *Brock* were the only case on the subject. The Coal Act was passed six years after *Brock,* when Congress was presumably aware that the Court does not readily infer congressional intent to limit an agency's power to finish a mandatory job merely from a specification to act by a certain time. Nothing more limiting than "shall" is to be found in the Coal Act: no express language supports the companies, while structure, purpose, and legislative history go against them. Structural clues support the Commissioner in the Act's other instances of combining "shall" with a specific date that could not possibly be read to prohibit action outside the statutory period. See

§§9705(a)(1), 9702(a)(1), 9704(h). In each of these instances, a conclusion is based on plausibility grounds: had Congress meant to set a counterintuitive limit on authority to act, it would have said more than it did, and would surely not have couched its intent in language *Brock* had already held to lack any clear jurisdictional significance. Pp. 7–12.

(2) The result of appealing to plausibility is not affected by either of the other textual features that the companies argue indicate inability to assign beneficiaries after October 1, 1993. Pp. 12–21.

(i) The provision for unassigned beneficiary status, §9704(d), cannot be characterized as the specification of a "consequence" for failure to assign a beneficiary to an operator or related person. It speaks not in terms of the Commissioner's failure to assign beneficiaries but simply of "beneficiaries who are not assigned." The most obvious reason for such unassigned status is a former employer's disappearance. This is not to say that a failure of timely assignment does not also leave a beneficiary "unassigned." It simply means that unassigned status has no significance peculiar to failure of timely assignment. In addition, to the extent that unassigned status is a consequence of mere untimeliness, the most obvious reason for specifying that consequence is not a supposed desire for finality but a default rule telling the Social Security Administration what funding source to use in the absence of any other. It is unrealistic to think that Congress understood unassigned status as an enduring consequence of uncompleted work, for nothing indicates that it foresaw that some beneficiaries matchable with operators still in business might not be assigned by the deadline. In the one instance where Congress clearly weighed finality on October 1, 1993, against accuracy of initial assignments, accuracy won, see §§9704(d), (f); and the companies' attempts to limit this apparent preference for accuracy fail. Pp. 13–19.

(ii) The provision that an operator's contribution for the benefit of the unassigned shall be calculated based on "assignments as of October 1, 1993," §9704(f)(1), does not mean that an assigned operator's percentage of potential liability for the benefit of the unassigned is fixed according to the assignments made at that date. "[A]s of" need not mean, as the companies contend, "as assignments actually stand" on that date, but can mean assignments as they shall be on that date, assuming the Commissioner complies with Congress's command. Since there is no "plain" reading, there is nothing left of this "as of" argument except its stress that the applicable percentage can be modified only in accordance with exceptions for initial error or an assignee operator's demise. And the enunciation of two exceptions does not imply the exclusion of a third when there is no reason to think that Congress considered such an exclusion and there is good reason

to conclude that Congress did not foresee a failure to make timely assignments. Pp. 19–21.

(b) The Coal Act was designed to allocate the greatest number of beneficiaries to a prior responsible operator. The way to reach this objective is to read the statutory date as a spur to prompt action, not as a bar to tardy completion of the business of ensuring that benefits are funded, as much as possible, by those principally responsible. Pp. 21–22.

14 Fed. Appx. 393 (first judgment) and 424 (second judgment), reversed.

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