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

NATIONAL LABOR RELATIONS BOARD *v.* HEALTH CARE & RETIREMENT CORPORATION OF AMERICA

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

No. 92–1964. Argued February 22, 1994—Decided May 23, 1994

Employees are considered ``supervisors,'' and thus are not covered under the National Labor Relations Act, 29 U. S. C. §152(3), if they have authority, requiring the use of independent judgment, to engage in one of 12 listed activities and they hold the authority ``in the interest of the employer,'' §152(11). Petitioner National Labor Relations Board has stated that a nurse's supervisory activity incidental to the treatment of patients is not authority exercised in the interest of the employer. Respondent owns and operates a nursing home at which staff nurses—including the four nurses involved in this case—are the senior ranking employees on duty most of the time, ensure adequate staffing, make daily work assignments, monitor and evaluate the work of nurses' aides, and report to management. In finding that respondent had committed an unfair labor practice in disciplining the four nurses, an administrative law judge concluded that the nurses were not supervisors because their focus was on the well-being of the residents, not the employer. The Board affirmed, but the Court of Appeals reversed, deciding that the Board's test for determining nurses' supervisory status was inconsistent with the statute.

Held: The Board's test for determining whether nurses are supervisors is inconsistent with the statute. Pp. 5–13.

(a) The Board has created a false dichotomy—between acts taken in connection with patient care and acts taken in the interest of the employer. Cf. *NLRB* v. *Yeshiva Univ.,* 444 U. S. 672, 688. Since patient care is a nursing home's business, it follows that attending to the needs of patients, who are the

employer's customers, is in the employer's interest. This conclusion is supported by the Court's decision in *Packard Motor Car Co.* v. *NLRB,* 330 U. S. 485, 488–489, interpreting the phrase ``in the interest of an employer.'' Pp. 5–8.

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(b) The Board's non-statutory arguments supporting its interpretation are unpersuasive. Its contention that granting organizational rights to nurses whose supervisory authority concerns patient care does not threaten the conflicting loyalties that the supervisor exception was designed to avoid is rejected. The Act must be enforced according to its own terms, not by creating legal categories inconsistent with its meaning. Nor can the tension between the Act's exclusion of supervisory and managerial employees and its inclusion of professionals be resolved by distorting the statutory language in the manner proposed by the Board. In addition, an isolated statement in the legislative history of the 1974 amendments to the Act—expressing apparent approval of the application of the Board's then-current supervisory test to nurses—does not represent an authoritative interpretation of the phrase ``in the interest of the employer'' enacted by Congress in 1947. Pp. 8–11.

987 F. 2d 1256, affirmed.

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