

Syllabus

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 Timber & Lumber Co.*, 200 U. S. 321, 337.

**SUPREME COURT OF THE UNITED STATES**

Syllabus

KIRKMAN *v.* BANK OF AMERICA, ET AL.

CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES  
COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 06–20. Decided April 5, 2019

Kirkman filed this action in the District Court against the Bank of America. The Bank responded with a motion to dismiss with prejudice. The District Court granted the motion. Kirkman appealed to the Court of Appeals and filed a petition for writ of certiorari before judgment in this Court. This Court granted the petition due to unreasonable delay.

*Held:* The Enhancing the Judiciary Act sets forth the circumstances under which prejudice may be applied to a dismissal. This case does not meet the requirements for prejudice to be applied.

3:18–1015, reversed in part.

PITNEY, J., delivered the opinion of the Court, in which all other Members joined, except CHASE and DOUGLAS, JJ., who took no part in the consideration or decision of the case.

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

**SUPREME COURT OF THE UNITED STATES**

---

No. 06–20

---

KIRKMAN, PETITIONER *v.* BANK OF AMERICA, ET AL.

ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE UNITED  
STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

[April 5, 2019]

JUSTICE PITNEY delivered the opinion of the Court.

On the second of November, two thousand and eighteen, District Judge Conjman issued a dismissal with prejudice in the case of *Kirkman v. Bank of America*, 3:18–1015 (D. Nv. 2018). Statutory law, specifically the Enhancing the Judiciary Act of 2018, provides the applicable grounds for a case, whether civil or criminal, to be dismissed with prejudice by a Federal District Court. It states: “No case . . . shall be dismissed with prejudice unless the defendant has been put in jeopardy.” It is the understanding of the Court that the statutory requirements to apply prejudice to this case were not fulfilled.

Therefore, the judgment of the District Court is reversed with regard to the application of prejudice in this case.

*It is so ordered.*