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Supreme Court Weighing Whether Public Employees Can Reveal Corruption.

The Supreme Court on Monday sounded ready to rule that a public employee who testifies about corruption in his government department cannot be fired for revealing the truth.

But first justices will need to confront their own 2006 ruling that sharply limited the free-speech rights of such workers.

“Why do we put people at risk for telling the truth?” asked Justice Sonia Sotomayor, as the court heard the case of an Alabama community college official who was dismissed after revealing that a state legislator was drawing a salary for a college job but doing no work.

Edward Lane, the fired official, lost his free-speech lawsuit last year against the college president who dismissed him after the U.S. 11th Circuit Court of Appeals ruled that, under the 2006 Supreme Court precedent, Lane was not protected.

Although teachers and other public employees are free to speak as citizens, the high court ruled, the 1st Amendment does not protect them if they learn something on the job and reveal it to the public over the objections of their employer. The 5-4 ruling in *Garcetti vs. Ceballos* rejected a suit by a Los Angeles County deputy district attorney who was demoted after raising questions about the validity of a disputed search warrant.

The court’s opinion by Justice Anthony M. Kennedy said the deputy district attorney was speaking about an internal complaint. He was “not speaking as a citizen for 1st Amendment purposes,” Kennedy said.

That decision left public employees with little protection from supervisors upset by their comments.

Civil libertarians, whistle-blowers and public employee unions supported Lane in his appeal and urged the justices to revisit the issue so that public employees who expose corruption can be better protected.

In Lane’s case, federal prosecutors had ordered him to testify in the corruption trial of the state legislator.

“Well, what is he supposed to do?” Chief Justice John G. Roberts Jr. asked an attorney defending the college president. “He gets a subpoena” from the prosecutor and has to tell the truth in court.

“Mr. Chief Justice, we would never suggest anybody not comply with a subpoena and testify truthfully,” said Mark Waggoner, a lawyer from Birmingham.

“But you are suggesting he can be fired if he does it,” Roberts replied.

Sotomayor said the court should retreat from what it said in the *Garcetti* decision. “If someone is

called to testify truthfully about a matter of public concern, should they be able to be fired under the 1st Amendment?"

It was clear she and most others thought the answer was no.

But Lane may win only a partial victory. Several justices said that although Lane had a strong free-speech claim, Central Alabama Community College President Steve Franks could avoid paying damages because the law was unclear.

The court usually shields police or other public officials from paying damages for violating a constitutional right if the law was not clear at the time. A decision in Lane vs. Franks is due by late June.

Meanwhile, the court agreed Monday to hear the case of a Florida fisherman who was ensnared by a federal law designed to prevent white-collar criminals from shredding documents.

The Sarbanes-Oxley Act makes it a crime to hide documents or any "tangible object" to thwart a federal investigation. Fisherman John Yates was accused by a federal agent of reeling in red grouper that were under the 20-inch minimum, then tossing them overboard to hide the evidence.

Yates was sentenced to 30 days behind bars. The justices will hear his appeal arguing that the so-called anti-shredding provision should not apply to fish.

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