

The Burger Court Opinion Writing Database

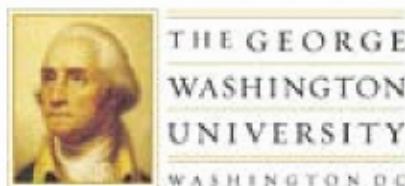
United States v. Randall

401 U.S. 513 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

March 17, 1971

Re: No. 125 - United States v. Randall

Dear Bill:

Please join me in the above.

Regards,

Mr. Justice Douglas

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

March 22, 1971

Re: No. 125 - U. S. v. Randall

MEMORANDUM TO THE CONFERENCE:

Justice Blackmun's dissenting opinion has pulled
me around to my original Conference vote and I will therefore
join him.

Regards,

WRB

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HUGO L. BLACK

March 16, 1971

Dear Bill:

Re: No. 125 - United States v. Randall

Please note that I dissent.

Sincerely,


Hugo

Mr. Justice Douglas

WV

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HUGO L. BLACK

March 18, 1971

Dear Harry,

I am happy you wrote in No. 125 -

United States v. Randall. Please join me in your
dissent.

I shall ask Brother Douglas to take
me off the foot of his opinion.

Sincerely,


H. L. B.

Mr. Justice Blackmun

cc: Members of the Conference

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HUGO L. BLACK

March 18, 1971

Dear Bill,

As per the attached, I am joining Harry's
dissent in No. 125 - U. S. v. Randall. Please take
me off the foot of your opinion.

Sincerely

HLB

Mr. Justice Douglas

WD

1 copy throughout

To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 125.—OCTOBER TERM, 1970

Circulation

United States, Petitioner, } On Writ of Certiorari to the
v. } United States Court of
William L. Randall, } Appeals for the Seventh
Trustee. } Circuit.

3/10/71

[March —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Halo Metal Products, Inc. (the debtor) was kept in possession of its business by court order under Chapter XI of the Bankruptcy Act. The order required it to open three separate bank accounts for its general, payroll, and tax indebtedness and to make appropriate disbursements from those accounts. Salaries and wages paid were to be credited against the payroll account and checks for wages and for withheld income and social security taxes were to be paid after approval by the referee. Checks for the withheld taxes were to be paid into the tax account. Withdrawals from this account were to be allowed only for payment of withheld taxes and welfare benefits.

The debtor did not comply with those requirements. Although it withheld income and taxes from the wages of its employees, it did not deposit them in the special tax account and did not pay them, as required, to the United States.

Later the debtor was adjudicated a bankrupt. The United States, which had previously filed a proof of claim in the Chapter XI proceedings for payment of the taxes, now asked the bankruptcy court to pay the amount of withheld taxes prior to the payment of the costs and expenses of administration of the bankruptcy proceed-

To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 125.—OCTOBER TERM, 1970

3/11/71

United States, Petitioner, | On Writ of Certiorari to the
v. | United States Court of
William L. Randall, | Appeals for the Seventh
Trustee. | Circuit.

[March —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Halo Metal Products, Inc. (the debtor) was kept in possession of its business by court order under Chapter XI of the Bankruptcy Act. The order required it to open three separate bank accounts for its general, payroll, and tax indebtedness and to make appropriate disbursements from those accounts. Salaries and wages paid were to be credited against the payroll account and checks for wages and for withheld income and social security taxes were to be paid after approval by the referee. Checks for the withheld taxes were to be paid into the tax account. Withdrawals from this account were to be allowed only for payment of withheld taxes and welfare benefits.

The debtor did not comply with those requirements. Although it withheld income and taxes from the wages of its employees, it did not deposit them in the special tax account and did not pay them, as required, to the United States.

Later the debtor was adjudicated a bankrupt. The United States, which had previously filed a proof of claim in the Chapter XI proceedings for payment of the taxes, now asked the bankruptcy court to pay the amount of withheld taxes prior to the payment of the costs and expenses of administration of the bankruptcy proceed-

Slight change in my hand

To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 125.—OCTOBER TERM, 1970

Argued:—

3/12/71

United States, Petitioner, } On Writ of Certiorari to the: *dated*:
 v. } United States Court of Appeals for the Seventh
 William L. Randall, } Circuit.
 Trustee.

[March —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Halo Metal Products, Inc. (the debtor) was kept in possession of its business by court order under Chapter XI of the Bankruptcy Act. The order required it to open three separate bank accounts for its general, payroll, and tax indebtedness and to make appropriate disbursements from those accounts. Salaries and wages paid were to be credited against the payroll account and checks for wages and for withheld income and social security taxes were to be paid after approval by the referee. Checks for the withheld taxes were to be paid into the tax account. Withdrawals from this account were to be allowed only for payment of withheld taxes and welfare obligation.

The debtor did not comply with those requirements. Although it withheld income and taxes from the wages of its employees, it did not deposit them in the special tax account and did not pay them, as required, to the United States.

Later the debtor was adjudicated a bankrupt. The United States, which had previously filed a proof of claim in the Chapter XI proceedings for payment of the taxes, now asked the bankruptcy court to pay the amount of withheld taxes prior to the payment of the costs and expenses of administration of the bankruptcy proceed-

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To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

4th DRAFT

SUPREME COURT OF THE UNITED STATES, J.

No. 125.—OCTOBER TERM, 1970 Circulated:

Recirculated:

United States, Petitioner, | On Writ of Certiorari to the
v. | United States Court of
William L. Randall, | Appeals for the Seventh
Trustee. | Circuit.

3/17/71

[March —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Halo Metal Products, Inc. (the debtor) was kept in possession of its business by court order under Chapter XI of the Bankruptcy Act. The order required it to open three separate bank accounts for its general, payroll, and tax indebtedness and to make appropriate disbursements from those accounts. Salaries and wages paid were to be credited against the payroll account and checks for wages and for withheld income and social security taxes were to be paid after approval by the referee. Checks for the withheld taxes were to be paid into the tax account. Withdrawals from this account were to be allowed only for payment of withheld taxes and welfare obligation.

The debtor did not comply with those requirements. Although it withheld income and taxes from the wages of its employees, it did not deposit them in the special tax account and did not pay them, as required, to the United States.

Later the debtor was adjudicated a bankrupt. The United States, which had previously filed a proof of claim in the Chapter XI proceedings for payment of the taxes, now asked the bankruptcy court to pay the amount of withheld taxes prior to the payment of the costs and expenses of administration of the bankruptcy proceed-

March 16, 1971

Re: No. 135 - U.S. v. Randall

Dear Bill:

I agree with your opinion.

Sincerely,

J. M. H.

Mr. Justice Douglas

CC: The Conference

Supreme Court of the United States
Washington, D. C. 20530

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 11, 1971

RE: No. 125 - United States v. Randall

Dear Bill:

I agree with the opinion you have
prepared in this above.

Sincerely,


W. J. B. Jr.

Mr. Justice Douglas

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

March 15, 1971

No. 125, U. S. v. Randall

Dear Bill,

Although I was tentatively of the other view at the Conference, I have decided to acquiesce in your opinion for the Court in this case, subject to reconsideration in the event that somebody else writes in dissent.

Sincerely yours,

P.S.

Mr. Justice Douglas

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

March 17, 1971

No. 125, United States v. Randall

Dear Harry,

I should appreciate your adding my
name to your dissenting opinion in this case.

Sincerely yours,

P.S.

Mr. Justice Blackmun

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

March 17, 1971

No. 125, United States v. Randall

Dear Bill,

Harry Blackman having now written
a dissenting opinion in this case, I have decided
to join it.

Sincerely yours,

P.S.,
J

Mr. Justice Douglas

Copies to the Conference

March 16, 1971

Re: United States v. Randall, No. 125

Dear Bill:

Please join me,

Sincerely,

B.R.H.

Mr. Justice Douglas

cc: Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 15, 1971

Re: No. 125 - United States v. Randall

Dear Bill:

Please join me.

Sincerely,



T.M.

Mr. Justice Douglas

cc: The Conference

March 15, 1971

Re: No. 125 - United States v. Randall, Trustee

Dear Bill:

I may try my hand at a short dissent in this
case.

Sincerely,

H. A. B.

Mr. Justice Douglas

cc: The Conference

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall

1st DRAFT

SUPREME COURT OF THE UNITED STATES: Blackmun, J.

No. 125.—OCTOBER TERM, 1970

Circulated: 3/7/71

Recirculated:

United States, Petitioner, } On Writ of Certiorari to the
v. } United States Court of
William L. Randall, } Appeals for the Seventh
 } Circuit.

[March —, 1971]

MR. JUSTICE BLACKMUN, dissenting.

I cannot escape the conviction that the Court's ruling on this very narrow issue dishonors property of the United States and effects a windfall for those who benefit from the ruling.

The amount in issue consists of income and FICA taxes actually withheld from wages of employees. These are not taxes of the debtor. Were it not for the withholding scheme, the amounts would have been paid out to the employees as gross wages and it would have been their obligation, as it was prior to the adoption of withholding, to pay those taxes. Instead, the employer now withholds, and § 7501 (a) of the Internal Revenue Code of 1954, 26 U. S. C. § 7501 (a), appropriately impresses a trust upon the amounts withheld. The Court today defeats the trust only because the arrangement debtor in possession, a corporation which the Court has characterized as "an officer of the bankruptcy court," *Nicholas v. United States*, 384 U. S. 678, 690 (1966), flagrantly disobeyed the arrangement court's specific order to pay the withholding amounts into a separate bank account. The respondent trustee concedes that if the order had been obeyed, the trustee would have no case. Transcript of Oral Argument, p. 34.

The decision in *Nicholas* does not demand the result reached by the Court. That case concerned interest ac-

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 125.—OCTOBER TERM, 1970 Circulated: _____
Recirculated: 3/19/71

United States, Petitioner, } On Writ of Certiorari to the
v. } United States Court of
William L. Randall, } Appeals for the Seventh
Trustee. } Circuit.

[March —, 1971]

MR. JUSTICE BLACKMAN, whom MR. JUSTICE BLACK
and MR. JUSTICE STEWART join, dissenting.

I cannot escape the conviction that the Court's ruling on this very narrow issue dishonors property of the United States and effects a windfall for those who benefit from the ruling.

The amount in issue consists of income and FICA taxes actually withheld from wages of employees. These are not taxes of the debtor. Were it not for the withholding scheme, the amounts would have been paid out to the employees as gross wages and it would have been their obligation, as it was prior to the adoption of withholding, to pay those taxes. Instead, the employer now withholds, and § 7501 (a) of the Internal Revenue Code of 1954, 26 U. S. C. § 7501 (a), appropriately impresses a trust upon the amounts withheld. The Court today defeats the trust only because the arrangement debtor in possession, a corporation which the Court has characterized as "an officer of the bankruptcy court," *Nicholas v. United States*, 384 U. S. 678, 690 (1966), flagrantly disobeyed the arrangement court's specific order to pay the withholding amounts into a separate bank account. The respondent trustee concedes that if the order had been obeyed, the trustee would have no case. Transcript of Oral Argument, p. 34.

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan ✓
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 125.—OCTOBER TERM, 1970

Circulated:

3/23/71

Recirculated:

United States, Petitioner, } On Writ of Certiorari to the
v. } United States Court of
William L. Randall, } Appeals for the Seventh
Trustee. } Circuit.

[March 24, 1971]

MR. JUSTICE BLACKMUN, whom THE CHIEF JUSTICE,
MR. JUSTICE BLACK, and MR. JUSTICE STEWART join,
dissenting.

I cannot escape the conviction that the Court's ruling on this very narrow issue dishonors property of the United States and effects a windfall for those who benefit from the ruling.

The amount in issue consists of income and FICA taxes actually withheld from wages of employees. These are not taxes of the debtor. Were it not for the withholding scheme, the amounts would have been paid out to the employees as gross wages and it would have been their obligation, as it was prior to the adoption of withholding, to pay those taxes. Instead, the employer now withholds, and § 7501 (a) of the Internal Revenue Code of 1954, 26 U. S. C. § 7501 (a), appropriately impresses a trust upon the amounts withheld. The Court today defeats the trust only because the arrangement debtor in possession, a corporation which the Court has characterized as "an officer of the bankruptcy court," *Nicholas v. United States*, 384 U. S. 678, 690 (1966), flagrantly disobeyed the arrangement court's specific order to pay the withholding amounts into a separate bank account. The respondent trustee concedes that if the order had been obeyed, the trustee would have no case. Transcript of Oral Argument, p. 34.