

# The Burger Court Opinion Writing Database

*California Department of Human Resources Development v. Java*

402 U.S. 121 (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 25, 1971

No. 507 -- California Department of Human Resources  
Development et al., Appellants, v. Judith  
Judith Java et al.

MEMORANDUM TO THE CONFERENCE:

Enclosed is proposed opinion affirming the  
Three-Judge District Court.

Regards,

WB

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

1st DRAFT

From: The Chief Justice  
MAR 26 1971

Completed: \_\_\_\_\_

Recirculated: \_\_\_\_\_

No. 507.—OCTOBER TERM, 1970

California Department of Human Resources Development et al., Appellants, v. Judith Java et al. On Appeal From the United States District Court for the Northern District of California.

[March —, 1971]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

This case raises the issue of whether a State may, consistent with § 303 (a)(1) of the Social Security Act, suspend or withhold unemployment compensation benefits from a claimant, when an employer takes an appeal from an initial determination of eligibility. Section 303 (a)(1) of the Social Security Act provides that benefits must be paid "when due."

In late summer 1969, appellees Judith Java and Carroll Hudson, having been discharged from employment, applied for unemployment insurance benefits under the California Unemployment Insurance Program. Appellees were given an eligibility interview at which the employer did not appear, although such an appearance was permitted. As a result of that interview both employees were ruled eligible for benefits. Payments began immediately. In each case the former employer filed an appeal after learning of the grant of benefits, contending that benefits should be denied because the claimants were discharged for cause. In accordance with the practice of the agency and pursuant to § 1335 of the

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

CHAMBERS OF  
CHIEF JUSTICE

March 31, 1971

Re: No. 507 - California Department of Human Resources v. Java

Dear Bill:

I believe you are overlooking the fact that the District Court holding was that a Goldberg v. Kelly hearing was required in order to terminate benefits under § 1335. My opinion is that Goldberg has nothing to do with this case.

I quite agree we should avoid a constitutional basis for holding whenever possible but here the District Court tied its statutory interpretation to the Goldberg constitutional requirement.

Conceivably we could extricate ourselves from the District Court error by holding more explicitly that the initial interview is a sufficient "hearing" to determine whether payments are "due".

Goldberg is thus totally irrelevant and should not have been relied on because we now hold the initial interview is dispositive and fixes "when (the payments are) due," thus avoiding the need, that the District Court approach includes, for a separate hearing after the initial interview.

Regards,

*WEB*

Mr. Justice Brennan

cc: The Conference

CHAMBERS OF  
THE CHIEF JUSTICE

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

April 1, 1971

#507

MEMORANDUM TO THE CONFERENCE:

A slight change on pages 3 and 14, enclosed, as to Sections(1) and (5), clarify the problems Bill Brennan had with Draft 1. There was no occasion for the District Court to rely on Goldberg. It is simply inapposite.

Regards,

ler B

procedure constitutes a denial of procedural due process, relying on *Goldberg v. Kelly*, 397 U. S. 254 (1970). It further held that the application of § 1335, so as to result in a median seven-week delay in payments to claimants who have been found eligible for benefits, constituted a failure to pay unemployment compensation "when due" within the meaning of § 303 (a)(1) of the Social Security Act. The court granted appellees motion for a preliminary injunction, ordering the State of California not to suspend unemployment benefits pursuant to § 1335 on the ground that an eligibility determination has been appealed except after a prior hearing in accordance with *Goldberg v. Kelly, supra*.

(1)

~~We agree with the District Court that § 1335 of the California Unemployment Insurance Code conflicts with the requirements of § 303 (a)(1) of the Social Security Act. We reject the holding that *Goldberg v. Kelly, supra*, controls, however.~~ Unlike *Goldberg v. Kelly, supra*, the procedures involved here concern the basic entitlement or eligibility stage rather than the subsequent revocation or withdrawal of benefits. ~~The State does not compel the surrender of a right in exchange for a privilege. Further, the factor of "brutal need," 397 U. S., at 261, which weighed heavily in evaluating the requirements of due process in *Goldberg*, does not inhere in the instant unemployment cases.~~ Unlike the welfare recipient, the unemployed person found to be eligible receives unemployment insurance compensation whether or not he receives income from sources other than wages, and irrespective of a showing of need.<sup>2</sup>

<sup>2</sup> See Report of the Committee on Economic Security, Hearings on S. 1130, Senate Committee on Finance, 74th Cong., 1st Sess., 1321-1322 (1935); S. Rep. No. 628, 74th Cong., 1st Sess., 11-14 (1935); Note, Charity Versus Social Insurance in Unemployment Compensation Laws. 73 Yale L. J. 357 (1963).

~~41 days from 11/1/69 to 1/1/70 as amended~~

We agree with the conclusion of the District Court that § 1335 of the California Unemployment Insurance Code conflicts with the requirements of § 303(a)(1) of the Social Security Act. That conclusion made unnecessary for the District Court to consider *Goldberg v. Kelly* US (1969), and makes unnecessary here, consideration of the constitutional question on which the District Court relied.

## 507—OPINION

14 CALIFORNIA HUMAN RESOURCES DEPT. *v.* JAVA

the statute imposes no hardship on either the State or the employer and gives effect to the congressional objective of getting money into the pocket of the unemployed worker at the earliest point that is administratively feasible to do so.

*For the reasons stated above we agree that*  
*Although we reject the District Court's conclusion that*  
~~§ 1335 is constitutionally invalid, we agree with the result~~  
~~reached since enforcement of the section is inconsistent~~  
~~with § 303(a)(1) of the Social Security Act. See King~~  
~~v. Smith, 392 U. S. 309, 333 (1968); Rosado v. Wyman,~~  
~~397 U. S. 397, 420-421 (1970).<sup>20</sup>~~

*Affirmed.*

*enforcement of*  
~~that § 1335 must be enjoined because it~~  
~~is inconsistent with § 303(a)(1) of the~~  
~~Social Security Act. See~~

*In disposing*

<sup>20</sup> On disposition of the prayer for a permanent injunction, it may be appropriate to join the Secretary of Labor as a party in order that complete relief may be accorded.

B  
pp. 3, 14  
§ minor changes

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

2nd DRAFT

From: The Chief Justice

Circulated:

APR 2

Recirculated:

4/2/1971

## SUPREME COURT OF THE UNITED STATES

No. 507.—OCTOBER TERM, 1970

California Department of Human Resources Development et al., Appellants,  
v.  
Judith, Java et al.

On Appeal From the United States District Court for the Northern District of California.

[April —, 1971]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

This case raises the issue of whether a State may, consistent with § 303 (a)(1) of the Social Security Act, suspend or withhold unemployment compensation benefits from a claimant, when an employer takes an appeal from an initial determination of eligibility. Section 303 (a)(1) of the Social Security Act, 42 U. S. C. § 503 (a)(1), provides that benefits must be paid "when due."

In late summer 1969, appellees Judith Java and Carroll Hudson, having been discharged from employment, applied for unemployment insurance benefits under the California Unemployment Insurance Program. Appellees were given an eligibility interview at which the employer did not appear, although such an appearance was permitted. As a result of that interview both employees were ruled eligible for benefits. Payments began immediately. In each case the former employer filed an appeal after learning of the grant of benefits, contending that benefits should be denied because the claimants were discharged for cause. In accordance with the practice of the agency and pursuant to § 1335 of the

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

CHAMBERS OF  
THE CHIEF JUSTICE

April 5, 1971

Re: No. 507 - California Human Resources Dept. v. Java

Dear Byron:

Thank you for your note of April 3.

I have a feeling that what you suggest is already there, but the point is somewhat elusive and it can readily be cleared up.

I think if we add the following to the first sentence at the top of page 12, that should clear it up:

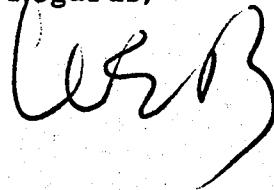
"allowed, as a result of a hearing at which both parties are able to present their respective positions;"

For even more clarity we could add after that sentence

"Since both parties are given notice of the initial interview and have, as we note elsewhere, full opportunity to present claims and challenge opposing positions that initial confrontation is crucial."

However, I will work at this to be sure the point you make is clarified. We are of one mind on the fundamentals.

Regards,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
THE CHIEF JUSTICE

April 16, 1971

No. 507 - California Dept. of Human Resources Development v.

Judith Java

MEMORANDUM TO THE CONFERENCE:

The above opinion has been generally revised and tightened up. No change in the result or reasoning is involved.

I believe it will meet all questions raised.

Regards,

WSB

pp 3, 6, 9, 10, 12, 13

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

3rd DRAFT

From: The Chief Justice

**SUPREME COURT OF THE UNITED STATES**

No. 507.—OCTOBER TERM, 1970

Recirculated: APR 16 1971

California Department of Human Resources Development et al., Appellants,  
v.  
Judith Java et al.

On Appeal From the United States District Court for the Northern District of California.

[April —, 1971]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

This case raises the issue of whether a State may, consistent with § 303 (a)(1) of the Social Security Act, suspend or withhold unemployment compensation benefits from a claimant, when an employer takes an appeal from an initial determination of eligibility. Section 303 (a)(1) of the Social Security Act, 42 U. S. C. § 503 (a)(1), provides that benefits must be paid "when due."

In late summer 1969, appellees Judith Java and Carroll Hudson, having been discharged from employment, applied for unemployment insurance benefits under the California Unemployment Insurance Program. Appellees were given an eligibility interview at which the employer did not appear, although such an appearance was permitted. As a result of that interview both employees were ruled eligible for benefits. Payments began immediately. In each case the former employer filed an appeal after learning of the grant of benefits, contending that benefits should be denied because the claimants were discharged for cause. In accordance with the practice of the agency and pursuant to § 1335 of the

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

CHAMBERS OF  
THE CHIEF JUSTICE

April 19, 1971

No. 507 - California Department of Human Resources,  
et al. v. Judith Java, et al.

Dear Bill:

I do not think the second paragraph of Part I, page 3, implies what you see in it but I have no objection to omitting it. It is unnecessary even though harmless.

Regards,

WB

Mr. Justice Brennan

cc: The Conference

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

4th DRAFT

From: The Chief Justice

Circulated:

No. 507.—OCTOBER TERM, 1970

Recirculated: APR 23 1971

California Department of Human Resources Development et al., Appellants, v. Judith Java et al. On Appeal From the United States District Court for the Northern District of California.

[April —, 1971]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

This case raises the issue of whether a State may, consistent with § 303 (a)(1) of the Social Security Act, suspend or withhold unemployment compensation benefits from a claimant, when an employer takes an appeal from an initial determination of eligibility. Section 303 (a)(1) of the Social Security Act, 42 U. S. C. § 503 (a)(1), provides that benefits must be paid "when due."

In late summer 1969, appellees Judith Java and Carroll Hudson, having been discharged from employment, applied for unemployment insurance benefits under the California Unemployment Insurance Program. Appellees were given an eligibility interview at which the employer did not appear, although such an appearance was permitted. As a result of that interview both employees were ruled eligible for benefits. Payments began immediately. In each case the former employer filed an appeal after learning of the grant of benefits, contending that benefits should be denied because the claimants were discharged for cause. In accordance with the practice of the agency and pursuant to § 1335 of the

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

CHAMBERS OF  
JUSTICE HUGO L. BLACK

April 1, 1971

Dear Chief,

Re: No. 507 - California Department of  
Human Resources Development v.  
Judith Java, et al.

I am glad to agree to your opinion as it now  
is.

Sincerely,

*H. L. B.*  
H. L. B.

The Chief Justice

cc: Members of the Conference

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2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 507.—OCTOBER TERM, 1970

California Department of Human Resources Development et al., Appellants, v. Judith Java et al. On Appeal From the United States District Court for the Northern District of California.

[April —, 1971]

MR. JUSTICE DOUGLAS, concurring.

While I join the opinion of the Court, I add a few words.

The argument of California in this case is surprisingly disingenuous. First it seeks to distinguish *Goldberg v. Kelly*, 397 U. S. 254, on the ground that "welfare is based on need; unemployment insurance is not." But as the opinion of the Court makes clear the thrust of the scheme for unemployment benefits was to take care of the need of displaced workers, pending a search for other employment. Second, California argues that delay in payment of benefits until the employer's appeal is ended is necessary in terms of due process because "it is the employer's money which is used to pay the claimant," his account being "charged" and his experience rating "adversely affected" each time an employee is paid benefits. It is true that the amount of taxes contributed by each employer to the unemployment fund varies directly with the number of his former employees who qualify for unemployment benefits. Under the California scheme, however, an employer's account is not finally charged with benefit payments until after he has exhausted all appeals in the administrative chain and also obtained judicial review. If he wins at any appellate level, he is *not* charged with any benefits paid to his former employee pending his

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 507.—OCTOBER TERM, 1970

California Department of Human Resources Development et al., Appellants,  
v.  
Judith Java et al.

On Appeal From the United States District Court for the Northern District of California.

[April —, 1971]

MR. JUSTICE DOUGLAS, concurring.

While I join the opinion of the Court, I add a few words.

The argument of California in this case is surprisingly disingenuous. First it seeks to distinguish *Goldberg v. Kelly*, 397 U. S. 254, on the ground that "welfare is based on need; unemployment insurance is not." But that simply is not true, for the history makes clear that the thrust of the scheme for unemployment benefits was to take care of the need of displaced workers, pending a search for other employment. Second, California argues that delay in payment of benefits until the employer's appeal is ended is necessary in terms of due process because "it is the employer's money which is used to pay the claimant," his account being "charged" and his experience rating "adversely affected" each time an employee is paid benefits. It is true that the amount of taxes contributed by each employer to the unemployment fund varies directly with the number of his former employees who qualify for unemployment benefits. Under the California scheme, however, an employer's account is not finally charged with benefit payments until after he has exhausted all appeals in the administrative chain and also obtained judicial review. If he wins at any appellate level, he is not charged with any benefits paid to his former employee

WB

WD

*File  
recd  
4-19*

4th DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 507.—OCTOBER TERM, 1970

California Department of Human Resources Development et al., Appellants, *v.* Judith Java et al. On Appeal From the United States District Court for the Northern District of California.

[April —, 1971]

MR. JUSTICE DOUGLAS, concurring.

While I agree with most of the opinion of the Court, I do not join it because of the rather strong inference that unemployment benefits are a matter of right while welfare benefits are of a lower status. We held, however, in *Goldberg v. Kelley*, 397 U. S. 254, 262, that welfare benefits "are a matter of statutory entitlement for persons qualified to receive them." That conclusion was indeed the king-pin in the decision holding that Due Process requires that "the recipient be afforded an evidentiary hearing *before* the termination of benefits." *Id.*, at 260. There were dissents from that position and I fear they cast a slight shadow over what is said today.

While I join the opinion of the Court, I add a few words.

The argument of California in this case is surprisingly disingenuous. First it seeks to distinguish *Goldberg v. Kelly*, 397 U. S. 254, on the ground that "welfare is based on need; unemployment insurance is not." But that simply is not true, for the history makes clear that the thrust of the scheme for unemployment benefits was to take care of the need of displaced workers, pending a search for other employment. Second, California argues that delay in payment of benefits until the employer's appeal is ended is necessary in terms of due process because "it is

Re  
L  
5/22  
5  
5th DRAFT

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

## SUPREME COURT OF THE UNITED STATES

No. 507.—OCTOBER TERM, 1970

From: Douglas, J.

Circulated:

California Department of Human Resources Development et al., Appellants, v. Judith Java et al.

On Appeal From the United States District Court for the Northern District of California.

Recirculated: 4-22

[April —, 1971]

MR. JUSTICE DOUGLAS, concurring. *deletion*

While I agree with the opinion of the Court, I add a few words.

The argument of California in this case is surprisingly disingenuous. First it seeks to distinguish *Goldberg v. Kelly*, 397 U. S. 254, on the ground that "welfare is based on need; unemployment insurance is not." But that simply is not true, for the history makes clear that the thrust of the scheme for unemployment benefits was to take care of the need of displaced workers, pending a search for other employment. Second, California argues that delay in payment of benefits until the employer's appeal is ended is necessary in terms of due process because "it is the employer's money which is used to pay the claimant," his account being "charged" and his experience rating "adversely affected" each time an employee is paid benefits. It is true that the amount of taxes contributed by each employer to the unemployment fund varies directly with the number of his former employees who qualify for unemployment benefits. Under the California scheme, however, an employer's account is not finally charged with benefit payments until after he has exhausted all appeals in the administrative chain and also obtained judicial review. If he wins at any appellate level, he is not charged with any benefits paid to his former employee

April 6, 1971

Re: No. 597 - California Department of Human  
Resources v. Javes

Dear Chief:

Having considered this case further I am now prepared, contrary to my original Conference vote, to go along with your opinion, with the clarification proposed by Brother White in his letter to you of April 3, with which I understand you are in accord.

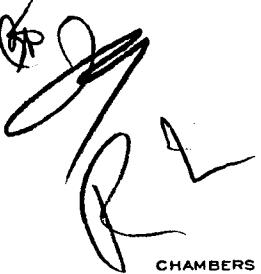
Sincerely,

J. M. H.

The Chief Justice

CC: The Conference

*[Handwritten signature]*



CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

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

March 30, 1971

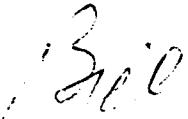
RE: No. 507 - California Department of Human Resources,  
et al. v. Judith Java, et al.

Dear Chief:

May I suggest that you revise everything after the first sentence in section (1) at page 3 to state that the result makes unnecessary reaching the constitutional question under Goldberg v. Kelly. I think that it is usually our practice to do that when a decision can turn on invalidity of a state statute because of conflict with a federal law. I recall that John did that in his Rosado case.

I agree with your opinion otherwise and make the suggestion because I would have a different view of the application of Goldberg v. Kelly if we had to reach that issue.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

April 1, 1971

RE: No. 507 - California, etc. v. Java

Dear Chief:

Thank you very much for your response of March 31 to my comment.

I've re-read the District Court opinion and see more clearly now what you had reference to. The District Court opinion contains two holdings: (1) that the present California termination proceeding in § 1335 must be enjoined because invalid on both statutory and constitutional (Goldberg v. Kelly) grounds, and (2) that California should not institute new termination procedures prior to final decision of an appeal without affording a Goldberg v. Kelly hearing. Your opinion holds the § 303(a)(1) of the Social Security Act flatly prohibits California from terminating benefits until there is a final decision on appeal. That resolution of the conflict with federal law means that no consideration whatever of the Goldberg v. Kelly issue was necessary in the case; since § 303(a)(1) prohibits termination, no occasion arises for deciding what procedures California must adopt to terminate. I therefore think that the two District Court errors in using Goldberg might be made clear by revisions in your opinion along the following lines.

1. Change Section (1) at page 3 to read as follows:

"We agree with the District Court that § 1335 of the California Unemployment Insurance Code conflicts with the requirements of § 303(a)(1) of the Social Security Act. That conclusion made unnecessary below, and makes unnecessary here, consideration of the constitutional question, and we intimate no views on that issue."

Re: No. 507 - California v. Java

2. Change Section (5) at page 14 to read as follows:

"We agree with the District Court that enforcement of § 1335 must be enjoined since enforcement of the section is inconsistent with § 303(a)(1) of the Social Security Act. See King v. Smith, 392 U.S. 309, 333 (1968); Rosado v. Wyman, 397 U.S. 397, 420-421 (1970).

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR. April 2, 1971

RE: No. 507 - California Human Resources  
v. Java

Dear Chief:

Thank you for the revision of your  
opinion in the above. I am happy to join.

Sincerely,

*Bill*

W.J.B. Jr.

The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

April 19, 1971

RE: No. 507 - California Department of Human Resources,  
et al. v. Judith Java, et al.

Dear Chief:

I have serious trouble with your re-formulation of Part (1) in the third draft of your opinion in the above. The second paragraph of that section now strongly implies that Goldberg v. Kelly would not apply in the unemployment insurance context. As I wrote to you in my memo of March 31, "I would have a different view of the application of Goldberg v. Kelly if we had to reach that issue." Since I agree with your opinion otherwise and since we both agree that it is unnecessary to reach the constitutional issue, may I suggest that you eliminate the second paragraph? The first paragraph makes clear that it was error for the District Court to reach the constitutional question and that we do not reach it. Isn't that the only point we need to make?

Sincerely,

*WJ*

The Chief Justice

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543CHAMBERS OF  
JUSTICE POTTER STEWART

March 30, 1971

No. 507 - Calif. Human Resources Dept.

Dear Chief,

Although at our Conference I was tentatively of the other view, I do not plan to write a dissenting opinion in this case, and shall acquiesce in your opinion unless somebody else dissents. Bill Brennan's suggested modification of the opinion is satisfactory to me.

Sincerely yours,

P.S.  
P.

The Chief Justice

Copies to the Conference

Dear Chief:

I agree with Bill Brennan's suggested  
change in your opinion

J.W.

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 3, 1971

Re: No. 507 - California Human Resources Dept. v. Java

Dear Chief:

Under your opinion, particularly part (4), California would also be in conflict with federal law if it postponed beginning payments until the time for appeal had run. I agree that this should be the case. The fact that this case involves a termination is therefore not of overriding importance.

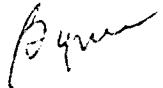
But I am reluctant to join your unrestricted holding in part (3) that "The word 'due' in § 303(a)(1), when construed according to the purposes of the Act, means the time when payments are first administratively determined." I would have some doubt that the section would require a state to start paying immediately under a system where initial eligibility is determined merely from an employee's application, but payments are deferred until expiration of a brief period to afford the employer a chance to request a hearing before a referee. In the case before us, for me at least, the crucial factor is the nature of the initial administrative proceedings and determination in California rather than the fact that administrative determination has been made. Perhaps this much can be implied from part (4), but I should prefer some modification of the last paragraph of part (3). Perhaps the following would be sufficient and agreeable to you:

"The word 'due' in § 303(a)(1), when construed according to the purposes of the Act, means the time when eligibility is first determined under the procedure employed in California; any other construction would fail to meet the objective of early substitute compensation during unemployment. Paying compensation to an unemployed worker promptly after California's initial determination of eligibility accomplishes the congressional purposes of avoiding

-2-

resort to welfare and stabilizing consumer demands; delaying compensation until months have elapsed defeats these purposes. It seems clear therefore that the California procedure, which suspends payments for a median period of seven weeks pending appeal, after that state's initial determination of eligibility has been made, is not 'reasonably calculated to insure full payment of unemployment compensation when due.'"

Sincerely,



The Chief Justice

Copies to the Conference

April 23, 1971

Re: No. 507 - California Human  
Resources v. Java

Dear Chief:

I am with your recirculation  
of today.

Sincerely,

B.R.W.

The Chief Justice

cc: Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

March 31, 1971

Re: No. 507 - Calif. Dept. of Human Resources  
v. Java

Dear Chief:

I agree with Bill Brennan's suggested  
change in your opinion.

Sincerely,

  
T.M.

The Chief Justice

cc: The Conference

P.S. I have just read your memorandum of even  
date and see much merit in your last paragraph  
if it could be used without the broad discussion  
of Goldberg now in your opinion.

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 23, 1971

Re: No. 507 - Calif. Dept. of Human  
Resources v. Java

Dear Chief:

Please join me.

Sincerely,



T.M.

The Chief Justice

cc: The Conference

*R. B. W.*

April 5, 1971

Re: No. 507 - California Department of Human  
Resources v. Java

Dear Chief:

Please join me. I favor the suggestion contained in Byron White's letter of April 3, or something akin to it.

Sincerely,

H. A. B.

The Chief Justice

cc: The Conference