

The Burger Court Opinion Writing Database

United States v. International Minerals & Chemical Corp.

402 U.S. 558 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



32
ML

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

CHAMBERS OF
THE CHIEF JUSTICE

May 26, 1971

No. 557 -- United States v. International Minerals and
Chemical Corporation

Dear Bill:

Please join me.

Regards,

WEB

Mr. Justice Douglas

cc: The Conference

3

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

CHAMBERS OF
JUSTICE HUGO L. BLACK

May 13, 1971

Dear Bill,

Re: No. 557 - United States v. International
Minerals & Chemical Corp.

I agree.

Sincerely,


Hugo

Mr. Justice Douglas

cc: Members of the Conference

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WD

File
in
5/12/71

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 557.—OCTOBER TERM, 1970

United States, Appellant,	}	Certified Appeal From the United States District Court for the Southern District of Ohio.
v.		
International Minerals & Chemical Corp.		

[May —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The information charged that respondent shipped sulfuric acid and hydrofluosilicic acid in interstate commerce and "did knowingly fail to show on the shipping papers the required classification of said property, to wit, Corrosive Liquid, in violation of 49 CFR 173.427."

18 U. S. C. § 834 (a) gives the Interstate Commerce Commission power to "formulate regulations for the safe transportation" of "corrosive liquids" and 18 U. S. C. § 834 (f) states that whoever "knowingly violates any such regulation" shall be fined or imprisoned.

Pursuant to the power granted by § 834 (a) the regulatory agency* promulgated the regulation already cited which reads:

"The Interstate Commerce Commission shall formulate regulations for the safe transportation within the United States of explosives and other dangerous articles including . . . corrosive liquids . . . which shall be binding upon all carriers engaged in inter-

*The regulatory authority originally granted the Interstate Commerce Commission was transferred to the Department of Transportation by 80 Stat. 939, 49 U. S. C. § 1655 (e).

WB
WB

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

From: Douglas, J.

SUPREME COURT OF THE UNITED STATES

No. 557.—OCTOBER TERM, 1970

5/13/71

United States, Appellant, } Certified Appeal From the
v. } United States District
International Minerals & } Court for the Southern
Chemical Corp. } District of Ohio.

[May —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The information charged that appellee shipped sulfuric acid and hydrofluosilicic acid in interstate commerce and "did knowingly fail to show on the shipping papers the required classification of said property, to wit, Corrosive Liquid, in violation of 49 CFR 173.427."

18 U. S. C. § 834 (a) gives the Interstate Commerce Commission power to "formulate regulations for the safe transportation" of "corrosive liquids" and 18 U. S. C. § 834 (f) states that whoever "knowingly violates any such regulation" shall be fined or imprisoned.

Pursuant to the power granted by § 834 (a) the regulatory agency* promulgated the regulation already cited which reads in part:

"Each shipper offering for transportation any hazardous material subject to the regulations in this chapter, shall describe that article on the shipping paper by the shipping name prescribed in § 172.5 of this

*The regulatory authority originally granted the Interstate Commerce Commission was transferred to the Department of Transportation by 80 Stat. 939, 49 U. S. C. § 1655 (e).

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SSSERNOC 50 ADV 11 N

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

*File & print
yes*

4-6

3rd DRAFT

From: Douglas, J.

SUPREME COURT OF THE UNITED STATES

No. 557.—OCTOBER TERM, 1970

Recirculated: 5-21

United States, Appellant,	}	Certified Appeal From the
v.		United States District
International Minerals & Chemical Corp.		Court for the Southern District of Ohio.

[May —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The information charged that appellee shipped sulfuric acid and hydrofluosilicic acid in interstate commerce and "did knowingly fail to show on the shipping papers the required classification of said property, to wit, Corrosive Liquid, in violation of 49 CFR 173.427."

18 U. S. C. § 834 (a) gives the Interstate Commerce Commission power to "formulate regulations for the safe transportation" of "corrosive liquids" and 18 U. S. C. § 834 (f) states that whoever "knowingly violates any such regulation" shall be fined or imprisoned.

Pursuant to the power granted by § 834 (a) the regulatory agency¹ promulgated the regulation already cited which reads in part:

"Each shipper offering for transportation any hazardous material subject to the regulations in this chapter, shall describe that article on the shipping paper by the shipping name prescribed in § 172.5 of this

¹ The regulatory authority originally granted the Interstate Commerce Commission was transferred to the Department of Transportation by 80 Stat. 939, 49 U. S. C. § 1655 (e).

May 10, 1971

Re: No. 557 - United States v. International
Minerals

Dear Potter:

Please join me in your dissent.

Sincerely,

J. M. H.

Mr. Justice Stewart

CC: The Conference

SP
L
You joined
not of
R

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 19, 1971

RE: No. 557 - United States v. International
Minerals, etc.

Dear Potter:

I voted the other way but your dissent
has changed my mind. Won't you please
join me.

Sincerely,

WJB

W. J. B. Jr.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 17, 1971

MEMORANDUM TO THE CONFERENCE

Re: No. 557 - United States v. Intl Minerals
and Chemicals Corp.

Within the next couple of days I shall be
circulating a dissenting opinion in this case.

P.S.

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U.S. SUPREME COURT

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES From: Stewart, J.

No. 557.—OCTOBER TERM, 1970

Circulated MAY 18 1971

Recirculated:

United States, Appellant, } Certified Appeal From the
v. } United States District
International Minerals & } Court for the Southern
Chemical Corp. } District of Ohio.

[May —, 1971]

MR. JUSTICE STEWART, dissenting.

This case stirs large questions—questions that go to the moral foundations of the criminal law. Whether postulated as a problem of “*mens rea*,” of “willfulness,” of “criminal responsibility,” or of “*scienter*,” the infliction of criminal punishment upon the unaware has long troubled the fair administration of justice. See, *e. g.*, *Morissette v. United States*, 342 U. S. 246; *Lambert v. California*, 355 U. S. 225; *Scales v. United States*, 367 U. S. 203. Cf. *Durham v. United States*, 214 F. 2d 862. But there is no occasion here for involvement with this root problem of criminal jurisprudence, for it is evident to me that Congress made punishable only knowing violations of the regulation in question. That is what the law quite clearly says, what the federal courts have held, and what the legislative history confirms.

The statutory language is hardly complex. Section 834 (a) of Title 18, U. S. C., gives the regulatory agency power “to formulate regulations for the safe transportation of,” among other things, “corrosive liquids.” Section 843 (f) provides that “[w]hoever knowingly violates any such regulation shall be fined not more than \$1,000.00 or imprisoned not more than one year, or both.” In dismissing the information in this case because it did not charge the appellee shipper with knowing violation of

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WV

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

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Stewart, J.

Circulated: _____

No. 557.—OCTOBER TERM, 1970

Recirculated: MAY 23 1971

United States, Appellant, } Certified Appeal From the
v. } United States District
International Minerals & } Court for the Southern
Chemical Corp. } District of Ohio.

[June —, 1971]

MR. JUSTICE STEWART, with whom MR. JUSTICE HARLAN and MR. JUSTICE BRENNAN join, dissenting.

This case stirs large questions—questions that go to the moral foundations of the criminal law. Whether postulated as a problem of “*mens rea*,” of “willfulness,” of “criminal responsibility,” or of “*scienter*,” the infliction of criminal punishment upon the unaware has long troubled the fair administration of justice. See, *e. g.*, *Morissette v. United States*, 342 U. S. 246; *Lambert v. California*, 355 U. S. 225; *Scales v. United States*, 367 U. S. 203. Cf. *Durham v. United States*, 214 F. 2d 862. But there is no occasion here for involvement with this root problem of criminal jurisprudence, for it is evident to me that Congress made punishable only knowing violations of the regulation in question. That is what the law quite clearly says, what the federal courts have held, and what the legislative history confirms.

The statutory language is hardly complex. Section 834 (a) of Title 18, U. S. C., gives the regulatory agency power “to formulate regulations for the safe transportation of,” among other things, “corrosive liquids.” Section 843 (f) provides that “[w]hoever knowingly violates any such regulation shall be fined not more than \$1,000.00 or imprisoned not more than one year, or both.” In dismissing the information in this case because it did not charge the appellee shipper with knowing violation of

May 18, 1971

Re: No. 557 - U.S. v. International
Minerals & Chemical Corp.

Dear Bill:

Please join me.

Sincerely,

B.R.W.

Mr. Justice Douglas

cc: Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 17, 1971

Re: No. 557 - United States v. Inter-
national Minerals

Dear Bill:

Please join me.

Sincerely,


T.M.

Mr. Justice Douglas

cc: The Conference

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OFFICE OF THE CLERK OF THE SUPREME COURT

BR
R

May 13, 1971

Re: No. 557 - U. S. v. International Minerals
and Chemicals Corp.

Dear Bill:

Please join me in your opinion.

Sincerely,

H.A.B.

Mr. Justice Douglas

cc: The Conference