

The Burger Court Opinion Writing Database

NLRB v. Natural Gas Utility District of Hawkins County

402 U.S. 600 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

May 26, 1971

No. 785 -- NLRB v. Natural Gas Utility Dist.,
Hawkins County, Tennessee

Dear Bill:

Please join me.

Regards,

W.W.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HUGO L. BLACK

May 18, 1971

Dear Bill,

Re: No. 785 - NLRB v. Natural Gas
Utility District.

While I voted the other way and still find
this a very close case, a reading of the en-
tire record buttresses your strong opinion
and I am happy to agree.

Sincerely,

Hugo
Hugo

Mr. Justice Brennan

cc: Members of the Conference

May 18, 1971

Re: No. 718 - KLAB v. Natural Gas

Dear Bill:

I am glad to join your excellent opinion.

Sincerely,

J. M. H.

Mr. Justice Stevens

CC: The Conference

BR

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JR
no joins in
Plano
Date 2/2/71
To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

1st DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

No. 785.—OCTOBER TERM, 1970

Received

National Labor Relations Board,
Petitioner,
v.
The Natural Gas Utility District
of Hawkins County,
Tennessee.

On Writ of Certiorari
to the United States
Court of Appeals for
the Sixth Circuit.

[May —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

Upon the petition of Plumbers and Steamfitters Local 102, the National Labor Relations Board ordered that a representation election be held among the pipefitters employed by respondent, Natural Gas Utility District of Hawkins County, Tennessee, 167 N. L. R. B. 691 (1967). In the representation proceeding, respondent objected to the Board's jurisdiction on the sole ground that as a "political subdivision" of Tennessee, it was not an "employer" subject to Board jurisdiction under § 2 (2) of the Labor Management Relations Act, 29 U. S. C. § 152 (2).¹ When the Union won the election and was

¹ Section 2 (2) of the LMRA, 29 U. S. C. § 152 (2) provides:
"The term 'employer' includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof, or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

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LJM
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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.

No. 785.—OCTOBER TERM, 1970

Circulated: MAY 24 1971

National Labor Relations Board,
Petitioner,
v.
The Natural Gas Utility District
of Hawkins County,
Tennessee.

Recirculated: _____

On Writ of Certiorari
to the United States
Court of Appeals for
the Sixth Circuit.

[May —, 1971]

MR. JUSTICE STEWART, dissenting.

I agree with the Court that federal rather than state law governs the determination of whether an employer is a "political subdivision" of the State within the meaning of § 2 (2) of the Labor Management Relations Act, 29 U. S. C. § 152 (2). But I cannot agree that the Board erred in this case in concluding that the respondent is not entitled to exemption under the Act.

In determining that the respondent Utility District was not a "political subdivision" of the State, the Board followed its settled policy of weighing all relevant factors, with particular emphasis here on the circumstances that the District is neither "created directly by the state" nor "administered by State-appointed or elected officials" and is "autonomous in the conduct of its day-to-day affairs." On the other side, the Board gave less weight to the State's characterization of a utility district as an arm of the State for purposes of exemption from state taxes and conferral of the power of eminent domain.

This approach seems wholly acceptable to me, inasmuch as state tax exemption and the power of eminent domain are not attributes peculiar to political subdivisions nor attributes with any discernible impact on labor relations. Attributes which *would* implicate labor

May 18, 1971

Re: No. 785 - MSS. v. Natural Gas
Utility District

Dear Bill:

Please join us.

Sincerely,

B.R.M.

Mr. Justice BREWSTER

cc: Congress



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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 18, 1971

Re: No. 785 - N.L.R.B. v. Natural Gas Utility

Dear Bill:

Please join me.

Sincerely,


T.M.

Mr. Justice Brennan

cc: The Conference

May 19, 1971

Re: No. 785 - NLRB v. Natural Gas Utility District

Dear Bill:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Brennan

cc: The Conference

BR