

The Burger Court Opinion Writing Database

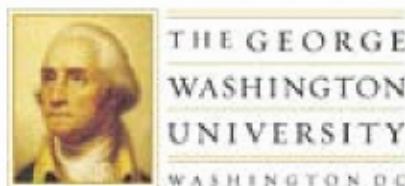
Ramsey v. Mine Workers

401 U.S. 302 (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

February 8, 1971

Re: No. 88 - Ramsey v. UMW

Dear Byron:

Please join me in your January 21st proposed
opinion.

Regards,

Web

WEB

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HUGO L. BLACK

February 2, 1971

Dear Bill:

Re: No. 88 - Ramsey v. United
Mine Workers.

Please add me to your dissent
in this case.

Sincerely,



H. L. B.

Mr. Justice Douglas

cc: Members of the Conference

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. 88.—OCTOBER TERM, 1970

George Ramsey and Leon Nunley, dba Leon Nunley Coal Company, et al.,
Petitioners,
v.
United Mine Workers of America.

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

[February —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

This phase of this protracted litigation involves quite a different problem than the one presented in *United Mine Workers v. Pennington*, 381 U. S. 657. *Pennington* involved the question whether § 20 of the Clayton Act, 38 Stat. 738, and § 4 of the Norris-LaGuardia Act, 47 Stat. 70, under the complaint there made exempted United Mine Workers from liability under the antitrust laws. That was recognized as the single issue. *Id.*, at 661–666. The Court said, “. . . we think a union forfeits its exemption from the antitrust laws when it is clearly shown that it has agreed with one set of employers to impose a certain wage scale on other bargaining units.” *Id.*, at 665.

The question in this case involves not the scope of the exemption but whether the Sherman Act has been violated. As we said in *Apex Hosiery Co. v. Leader*, 310 U. S. 469, 512, “. . . activities of labor organizations not immunized by the Clayton Act are not necessarily violations of the Sherman Act.”

A union-employer agreement to force other employees out of business causes the union to lose its exemption.

1/3/71

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

J.

No. 88.—OCTOBER TERM, 1970

1/29/71

George Ramsey and Leon Nunley, dba Leon Nunley Coal Company, et al., Petitioners,
 v.
 United Mine Workers of America.

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

[February —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

This phase of this protracted litigation involves quite a different problem than the one presented in *United Mine Workers v. Pennington*, 381 U. S. 657. *Pennington* involved the question whether § 20 of the Clayton Act, 38 Stat. 738, and § 4 of the Norris-LaGuardia Act, 47 Stat. 70, under the complaint there made exempted United Mine Workers from liability under the antitrust laws. That was recognized as the single issue. *Id.*, at 661–666. The Court said, “. . . we think a union forfeits its exemption from the antitrust laws when it is clearly shown that it has agreed with one set of employers to impose a certain wage scale on other bargaining units.” *Id.*, at 665.

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A union-employer agreement to force other employers out of business causes the union to lose its exemption.

3rd 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. 88.—OCTOBER TERM, 1970

From: Douglas, J.

Circulated:

Recirculated: 2-2

George Ramsey and Leon
Nunley, dba Leon Nun-
ley Coal Company, et al.,
Petitioners,
v.
United Mine Workers of
America.

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

[February —, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK concurs, dissenting.

This phase of this protracted litigation involves quite a different problem than the one presented in *United Mine Workers v. Pennington*, 381 U. S. 657. *Pennington* involved the question whether § 20 of the Clayton Act, 38 Stat. 738, and § 4 of the Norris-LaGuardia Act, 47 Stat. 70, under the complaint there made exempted United Mine Workers from liability under the antitrust laws. That was recognized as the single issue. *Id.*, at 661-666. The Court said, ". . . we think a union forfeits its exemption from the antitrust laws when it is clearly shown that it has agreed with one set of employers to impose a certain wage scale on other bargaining units." *Id.*, at 665.

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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: Douglas, J.

No. 88.—OCTOBER TERM, 1970

Circulated:

Recirculated: 2-5

George Ramsey and Leon
Nunley, dba Leon Nun-
ley Coal Company, et al.,
Petitioners,
v.
United Mine Workers of
America.

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

[February —, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK
and MR. JUSTICE MARSHALL concur, dissenting.

This phase of this protracted litigation involves quite a different problem than the one presented in *United Mine Workers v. Pennington*, 381 U. S. 657. *Pennington* involved the question whether § 20 of the Clayton Act, 38 Stat. 738, and § 4 of the Norris-LaGuardia Act, 47 Stat. 70, under the complaint there made exempted United Mine Workers from liability under the antitrust laws. That was recognized as the single issue. *Id.*, at 661-666. The Court said, ". . . we think a union forfeits its exemption from the antitrust laws when it is clearly shown that it has agreed with one set of employers to impose a certain wage scale on other bargaining units." *Id.*, at 665.

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A union-employer agreement to force other employers out of business causes the union to lose its exemption.

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

5th DRAFT

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

No. 88.—OCTOBER TERM, 1970

George Ramsey and Leon Nunley, dba Leon Nunley Coal Company, et al., Petitioners,
 v.
 United Mine Workers of America.

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

2/9/71

[February —, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK, MR. JUSTICE HARLAN, and MR. JUSTICE MARSHALL concur, dissenting.

This phase of this protracted litigation involves quite a different problem than the one presented in *United Mine Workers v. Pennington*, 381 U. S. 657. *Pennington* involved the question whether § 20 of the Clayton Act, 38 Stat. 738, and § 4 of the Norris-LaGuardia Act, 47 Stat. 70, under the complaint there made exempted United Mine Workers from liability under the antitrust laws. That was recognized as the single issue. *Id.*, at 661-666. The Court said, ". . . we think a union forfeits its exemption from the antitrust laws when it is clearly shown that it has agreed with one set of employers to impose a certain wage scale on other bargaining units." *Id.*, at 665.

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A union-employer agreement to force other employers out of business causes the union to lose its exemption.

January 26, 1971

MEMORANDUM TO THE CONFERENCE

Re: No. 88 - Ramsey v. UMW

Dear Brothers:

I thought I should let the Conference know that in due course I plan to circulate a dissenting opinion in this case.

Sincerely,

J. M. H.

February 8, 1971

Re: No. 68 - Ramsey v. UMW

Dear Bill:

Please join me in your dissent. I do not intend to write separately myself, which in my memorandum of January 26, circulated before your dissent came in, I stated I intended to do.

Sincerely,

J. M. H.

Mr. Justice Douglas

CC: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 28, 1971

RE: No. 88 - Ramsey dba Leon Nunley Coal
Co. v. United Mine Workers of America

Dear Byron:

Please join me in your opinion in the
above.

Sincerely,


W.J.B. Jr.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 25, 1971

No. 88, Ramsey v. Mine Workers

Dear Byron,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P.S.

Mr. Justice White

Copies to the Conference

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

2nd DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

No. 88.—OCTOBER TERM, 1970

George Ramsey and Leon Nunley, dba Leon Nunley Coal Company et al., Petitioners,
v.
United Mine Workers of America.

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

[January —, 1971]

MR. JUSTICE WHITE delivered the opinion of the Court.

Petitioners, coal mine operators in southeastern Tennessee, were plaintiffs in the trial court, where their complaint accused respondent United Mine Workers of America of violating the Sherman Act by conspiring with various coal producers to drive petitioners out of business. The major thrust of the claim was that the Union had expressly or impliedly agreed with the major producers to impose the provisions of the National Bituminous Coal Wage Agreement (NBCWA), first executed by the Union and certain companies in 1950, on all coal mine operators, knowing that small and nonmechanized operators would be unable to meet the contract's terms. The purpose of this alleged conspiracy was to eliminate the marginal operators, control production, and reserve the market for larger concerns. The claim of express agreement rested on the so-called Protective Wage Clause (PWC) added to the NBCWA by amendment in 1958. The PWC, after reciting that the parties agreed that coal mines "shall be so operated as not to debase or lower the standards of wages, hours, safety requirements, and

Stylistic changes

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

3rd DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

No. 88.—OCTOBER TERM, 1970

Recirculated: 2-19-71

George Ramsey and Leon Nunley, dba Leon Nunley Coal Company, et al.,
 Petitioners,
 v.
 United Mine Workers of America.

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

²⁴
 [February 22, 1971]

MR. JUSTICE WHITE delivered the opinion of the Court.

Petitioners, coal mine operators in southeastern Tennessee, were plaintiffs in the trial court, where their complaint accused respondent United Mine Workers of America of violating the Sherman Act by conspiring with various coal producers to drive petitioners out of business. The major thrust of the claim was that the Union had expressly or impliedly agreed with the major producers to impose the provisions of the National Bituminous Coal Wage Agreement (NBCWA), first executed by the Union and certain companies in 1950, on all coal mine operators, knowing that small and nonmechanized operators would be unable to meet the contract's terms. The purpose of this alleged conspiracy was to eliminate the marginal operators, control production, and reserve the market for larger concerns. The claim of express agreement rested on the so-called Protective Wage Clause (PWC) added to the NBCWA by amendment in 1958. The PWC, after reciting that the parties agreed that coal mines "shall be so operated as not to debase or lower the standards of wages, hours, safety requirements and

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 2, 1971

Re: No. 88 - Ramsey v. United Mine Workers

Dear Bill:

Please join me in your dissent.

Sincerely,



T.M.

Mr. Justice Douglas

cc: The Conference

January 25, 1971

Re: No. 88 - Ramsey, et al. v. United Mine Workers

Dear Byron:

Please join me.

Sincerely,

H. A. B.

Mr. Justice White

cc: The Conference

for H.A.B.

January 25, 1971

Re: No. 38 - Ramsey, et al. v. United Mine Workers

Dear Byron:

Please join me.

Sincerely,

H. A. B.

Mr. Justice White

cc: The Conference

Dear Byron:

I may have a mental block this morning, but I wonder whether, on page 7 in the 9th line from the bottom of the full paragraph, the word "employees" should be "employer."