

The Burger Court Opinion Writing Database

Lynch v. Household Finance Corp.
405 U.S. 538 (1972)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

January 25, 1972

MEMORANDUM TO THE CONFERENCE:

Re: 42 U.S.C. §§ 1983 and 2283, and
No. 70-5058 - Lynch v. Household Finance Corp.

I enclose a copy of a memo I have had some of my
Clerks work up as a "book review" on the memo Potter Stewart
circulated December 20, 1971.

I confess I have not come to rest on which of the
two memos I think correct but it occurred to me that it might
be useful if we exchanged such reactions as may develop.

Regards,

WFB

Assigned to PS
You asked to reverse, and did.
PS, WFB, WFD, Chief
NABTBRC w. affirm

MEMO RE: SECTIONS 1983 and 2283

Section 1983 was not intended to be an exception to § 2283. It is respectfully suggested that the conclusions on this issue reached in Part III of the "Harlan" memo circulated by Mr. Justice Stewart do not follow from the comprehensive catalog of factors brought to bear on this issue. Sketched out below is a response to that argument, which leads to the conclusion that § 1983 should not be seen as an express exception to § 2283. In general, there are three important points:

- (1) The "express exception" cases do not support the conclusion that 1983 is similar to the statutes involved in those cases.
- (2) Legislative History does not support the memo's conclusion.
- (3) The reference to the revolution in American federalism -- which truly was accomplished by the 14th Amendment and the Civil Rights Act of 1871 -- does not support the memo's conclusion.

I

The past decisions of this Court do not support the conclusion that 1983 is an exception to it.

B
you forward
PS 9

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

CHAMBERS OF
THE CHIEF JUSTICE

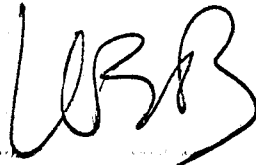
March 10, 1972

Re: No. 70-5058 - Lynch v. Household Finance Corporation

Dear Byron:

Please join me in your dissent as I am now persuaded
that the state garnishment process is part and parcel
of the state action here, as it is in most states.

Regards,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

February fifth
1972

Dear Potter:

In No. 70-5058 - Lynch v.
Household Finance, please join me
in your opinion.


William O. Douglas

Mr. Justice Stewart

CC: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 7, 1972

RE: No. 70-5058 - Lynch v. Household
Finance Corporation, et al.

Dear Potter:

I think this is a splendid contribution
to the resolution of what's been a bother-
some problem. I am happy to join it.

Sincerely,



Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

December 20, 1971

MEMORANDUM TO THE CONFERENCE

Re: No. 70-5088, Lynch v. Household Finance Corp.
No. 70-27, Mitchum v. Foster

This is the memorandum to which I referred
at the Conference on Thursday. It strikes me as a very
workmanlike and thorough job, and I am persuaded of
the correctness of the conclusions it reaches.

P.S.

MEMORANDUM TO MR. JUSTICE HARLAN

SUBJECT: Jurisdictional Problems with 42 U.S.C. §1983:

Lynch v. Household Finance Corp., No. 70-5058,
and Carter v. Stanton, No. 70-5082.

SCOPE OF THE MEMORANDUM

The two above-named cases raise many of the unresolved jurisdictional problems with suits brought in the federal courts under the Civil Rights Act, 42 U.S.C. §1983, and its jurisdictional counterpart, 28 U.S.C. §1343(3), seeking equitable relief. The purpose of this memorandum is to discuss those problems and to apply them to the instant cases.

The first section of this memorandum will deal with the question whether a litigant alleging a deprivation, under color of state law, only of property rights -- as opposed to "personal"

W. H. Miller
attaches to
PS memo
12/10/71
Note
HE 193
pro
active

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5058

Circulated: FEB 4 1972

Recirculated: _____

Dorothy Lynch et al.,	}	On Appeal from the United States District Court, District of Connecticut.
Appellants,		
v.		
Household Finance Corporation et al.		

[February —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1968, the appellant, Mrs. Dorothy Lynch, a resident of New Haven, Connecticut, directed her employer to deposit \$10 of her \$69 weekly wage in a credit union savings account. In 1969, appellee Household Finance Corporation sued Mrs. Lynch for \$525 in a state court, alleging nonpayment of a promissory note. Before she was served with process, the appellee corporation garnished her savings account under the provisions of Connecticut law that authorize summary pre-judicial garnishment at the behest of attorneys for alleged creditors.¹

The appellant then brought this class action in a federal district court against Connecticut sheriffs who levy on bank accounts and against creditors who invoke the garnishment statute.² Mrs. Lynch alleged

¹ The garnishments are levied pursuant to Conn. Gen. Stat. § 52-329. For a further description of Connecticut's statutory garnishment scheme, see Part II of this opinion, *infra*.

² The second named appellant, Norma Toro, had her checking account garnished by her former landlord, one Eugene Composano. Subsequently Composano released the garnishment. An issue of

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To: The Chief Justice
Mr. Justice Brandeis
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall ✓
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Stewart, J.

No. 70-5058

Circulated: _____

Recirculated: _____

FEB 15 1972

Dorothy Lynch et al., Appellants, v. Household Finance Corpo- ration et al.	}	On Appeal from the United States District Court, Dis- trict of Connecticut.
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[February —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1968, the appellant, Mrs. Dorothy Lynch, a resident of New Haven, Connecticut, directed her employer to deposit \$10 of her \$69 weekly wage in a credit union savings account. In 1969, appellee Household Finance Corporation sued Mrs. Lynch for \$525 in a state court, alleging nonpayment of a promissory note. Before she was served with process, the appellee corporation garnished her savings account under the provisions of Connecticut law that authorize summary pre-judicial garnishment at the behest of attorneys for alleged creditors.¹

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¹ The garnishment was levied pursuant to Conn. Gen. Stat. § 52-329. For a further description of Connecticut's statutory garnishment scheme, see Part II of this opinion, *infra*.

² The second named appellant, Norma Toro, had her checking account garnished by her former landlord, one Eugene Composano. Subsequently Composano released the garnishment. An issue of

6 341
p16

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall ✓
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

3rd DRAFT

SUPREME COURT OF THE UNITED STATES ^{Justice Stewart, J.}

No. 70-5058

Circulated: _____

Recirculated: MAR 8 1972

Dorothy Lynch et al., Appellants, v. Household Finance Corpo- ration et al.	}	On Appeal from the United States District Court, Dis- trict of Connecticut.
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[February —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1968, the appellant, Mrs. Dorothy Lynch, a resident of New Haven, Connecticut, directed her employer to deposit \$10 of her \$69 weekly wage in a credit union savings account. In 1969, appellee Household Finance Corporation sued Mrs. Lynch for \$525 in a state court, alleging nonpayment of a promissory note. Before she was served with process, the appellee corporation garnished her savings account under the provisions of Connecticut law that authorize summary pre-judicial garnishment at the behest of attorneys for alleged creditors.¹

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¹ The garnishment was levied pursuant to Conn. Gen. Stat. § 52-329. For a further description of Connecticut's statutory garnishment scheme, see Part II of this opinion, *infra*.

² The second named appellant, Norma Toro, had her checking account garnished by her former landlord, one Eugene Composano. Subsequently Composano released the garnishment. An issue of

6 74
p 16-18

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5058

Circulated: _____

Recirculated: MAR 15 1972

Dorothy Lynch et al.,
Appellants,
v.
Household Finance Corporation et al.

On Appeal from the United
States District Court, Dis-
trict of Connecticut.

[March —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1968, the appellant, Mrs. Dorothy Lynch, a resident of New Haven, Connecticut, directed her employer to deposit \$10 of her \$69 weekly wage in a credit union savings account. In 1969, appellee Household Finance Corporation sued Mrs. Lynch for \$525 in a state court, alleging nonpayment of a promissory note. Before she was served with process, the appellee corporation garnished her savings account under the provisions of Connecticut law that authorize summary pre-judicial garnishment at the behest of attorneys for alleged creditors.¹

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¹ The garnishment was levied pursuant to Conn. Gen. Stat. § 52-329. For a further description of Connecticut's statutory garnishment scheme, see Part II of this opinion, *infra*.

² The second named appellant, Norma Toro, had her checking account garnished by her former landlord, one Eugene Composano. Subsequently Composano released the garnishment. An issue of

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

CHAMBERS OF
JUSTICE POTTER STEWART

March 27, 1972

MEMORANDUM TO THE CONFERENCE

Re: No. 70-5080 Weddle v. Director
No. 70-5395 Roberts v. Harder
No. 71-766 Carter v. Like

These cases have been held for Lynch v. Household Finance Corp., No. 71-5058. They appear on page 11 of the Conference List for March 31.

Both No. 70-5080, Weddle v. Director, and No. 70-5395, Roberts v. Harder, relied on the narrow view of §1343(3) jurisdiction which was expressly rejected in Lynch. Accordingly, I think both cases should be granted, vacated and remanded for reconsideration in light of Lynch. (A question of mootness is raised in Roberts, but that issue is best left to the lower courts.)

In No. 71-766, Carter v. Like, the CA 8 did not consider the issue decided in Lynch. The CA 8 held that there was §1343(3) jurisdiction. In my view, this holding was correct. This case also presents an issue regarding the authority of the Secretary of HEW to delegate his rule-making functions. I would grant the respondents' motion to proceed in forma pauperis and deny certiorari.

P.S.

Handwritten marks: a heart and a signature.

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
✓ Mr. Justice Marshall
Mr. Justice Burger
Mr. Justice Powell
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

From: White, J.

No. 70-5058

Circulated: 3-9-72

Recirculated: _____

Dorothy Lynch et al., Appellants, v. Household Finance Corporation et al.	}	On Appeal from the United States District Court, District of Connecticut.
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[March —, 1972]

MR. JUSTICE WHITE, dissenting.

I agree with the Court that federal jurisdiction under 28 U. S. C. § 1343 is not limited to the adjudication of property rights and if the disposition of this case turned solely on that issue I would without reservation join in the majority opinion. But I cannot agree either with the approach which the majority takes to the anti-injunction statute, 28 U. S. C. § 2283, or its conclusion that the statute does not bar this suit. I do not mean to suggest that appellants' due process attack on the Connecticut garnishment statute is not substantial. It obviously is. *Sniadach v. Family Finance Corp.*, 395 U. S. 337 (1969). Nevertheless, in my view, appellants should be required to press their constitutional attack in the state courts.

In Connecticut garnishment or attachment is one method of beginning a lawsuit. Conn. Gen. Stat. § 52-329; 1 Stephenson, Connecticut Civil Procedure 156-157, 232-237 (1970). Of course, the requisite personal service upon a defendant is necessary to obtain *in personam* jurisdiction, Conn. Gen. Stat. § 52-54, as well as to secure an effective garnishment, Stephenson, at 244, but as a matter of right in certain kinds of civil actions a plaintiff may simultaneously garnish a defendant's bank account and serve a summons upon the defendant,

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To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
~~Mr. Justice Marshall~~
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: White, J.

No. 70-5058

Circulated: _____

Recirculated: 3-14-72

Dorothy Lynch et al.,
Appellants,
v.
Household Finance Corporation et al. } On Appeal from the United
States District Court, District of Connecticut.

[March —, 1972]

MR. JUSTICE WHITE, with whom THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN join, dissenting.

I agree with the Court that federal jurisdiction under 28 U. S. C. § 1343 is not limited to the adjudication of personal rights and if the disposition of this case turned solely on that issue I would without reservation join in the majority opinion. But I cannot agree either with the approach which the majority takes to the anti-injunction statute, 28 U. S. C. § 2283, or its conclusion that the statute does not bar this suit. I do not mean to suggest that appellants' due process attack on the Connecticut garnishment statute is not substantial. It obviously is. *Sniadach v. Family Finance Corp.*, 395 U. S. 337 (1969). Nevertheless, in my view, appellants should be required to press their constitutional attack in the state courts.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL


February 8, 1972

Re: No. 70-5058 - Lynch v. Household Finance

Dear Potter:

Please join me.

Sincerely,


T.M.

Mr. Justice Stewart

cc: The Conference

B

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 13, 1972

Re: No. 70-5058 - Lynch v. Household Finance Corp.

Dear Byron:

Please join me in your dissent.

As one who practiced for a quarter of a century under a garnishment system somewhat like that of Connecticut, I am not persuaded that it is not, to use your phrase, "part and parcel of a state court proceeding now under way."

I suppose there is no reason to hold this case for No. 70-27, Mitchum v. Foster.

Sincerely,

H.A.

Mr. Justice White

cc: The Conference