

The Burger Court Opinion Writing Database

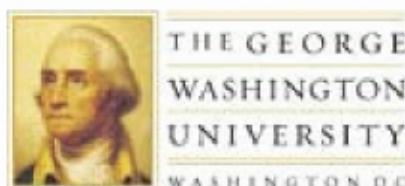
Richardson v. Belcher

404 U.S. 78 (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

November 1, 1971

Re: No. 70-53 - Richardson v. Belcher

Dear Potter:

I concur.

Regards,

WB

Mr. Justice Stewart

cc: The Conference

11-11
11-11

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-53

Elliot L. Richardson, Secretary of Health, Education, and Welfare, Appellant,
v.
Raymond Belcher. On Appeal from the United States District Court for the Southern District of West Virginia.

[November —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

I would affirm the judgment of the District Court. The statutory classification upheld today is not "rationally based and free from invidious discrimination." *Dandridge v. Williams*, 397 U. S. 471, 487. It is, in my view, violative of the Federal Government's obligation under the Fifth Amendment's Due Process Clause to guarantee to all citizens equal protection of the laws. *Bolling v. Sharpe*, 347 U. S. 497.

Eligibility for social security disability benefits is premised upon a worker's having attained "insured" status in the course of an employment "covered" by the Act. It is undisputed that Raymond Belcher, and through him his wife and two minor children, had so qualified in 1968 when he broke his neck while employed by the Pocahontas Fuel Co. in Lynco, West Virginia. Indeed, his application for such benefits has been approved, and the benefits authorized and paid.

Section 224 of the Social Security Act, however, requires that these benefits be substantially reduced solely because Belcher also receives state workmen's compensation payments. It is said that the duplication of benefits "impedes rehabilitation," and may lead to a cutting back of state workmen's compensation programs. *Ante*, p. —.

Wm. Douglas

Oct 71

*Jell. Room
11-16*

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-53

Elliot L. Richardson, Secretary
of Health, Education, and
Welfare, Appellant,
v.
Raymond Belcher. } On Appeal from the
United States District
Court for the South-
ern District of West
Virginia.

[November —, 1971]

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Wm. Douglas
Oct 17

Jesse
Recd
11-18

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-53

Elliot L. Richardson, Secretary
of Health, Education, and
Welfare. Appellant,
v.
Raymond Belcher. } On Appeal from the
United States District
Court for the South-
ern District of West
Virginia.

[November —, 1971]

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Wm Douglas
Oct 79

BP
chase throughout

1. Mr. Chief Justice
2. Mr. Justice Black
3. Mr. Justice Harlan
4. Mr. Justice Brennan
5. Mr. Justice Stewart
6. Mr. Justice White
7. Mr. Justice Marshall
8. Mr. Justice Blackmun

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-53

23, J.

Elliot L. Richardson, Secretary
of Health, Education, and
Welfare, Appellant,
v.
Raymond Belcher.

On Appeal from the
United States District
Court for the South-
ern District of West
Virginia.

11/19/71

[November 22, 1971]

MR. JUSTICE DOUGLAS, dissenting.

I would affirm the judgment of the District Court. The statutory classification upheld today is not "rationally based and free from invidious discrimination." *Dandridge v. Williams*, 397 U. S. 471, 487. It is, in my view, violative of the Federal Government's obligation under the Fifth Amendment's Due Process Clause to guarantee to all citizens equal protection of the laws. *Bolling v. Sharpe*, 347 U. S. 497.

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

~~RECORDED
NOV 10 1971~~

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. November 4, 1971

RE: No. 70-53 - Richardson v. Belcher

Dear Thurgood:

Please join me.

Sincerely,

Bill

Mr. Justice Marshall

cc: The Conference

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

*sent by my
hand at a discount
12/1/71*

1st DRAFT

From: Stewart, J.

Circulated: OCT 28 1971

SUPREME COURT OF THE UNITED STATES

Received: 10/28/71

No. 70-53

Elliot L. Richardson, Secretary of Health, Education, and Welfare, Appellant,
v.
Raymond Belcher.

On Appeal from the United States District Court for the Southern District of West Virginia.

[November —, 1971]

MR. JUSTICE STEWART delivered the opinion of the Court.

The appellee was granted social security disability benefits effective in October 1968, in the amount of \$329.70 per month for himself and his family. In January 1969, the federal payment was reduced to \$225.30 monthly under the "offset" provision of Section 224 of the Social Security Act, 79 Stat. 406, 42 U. S. C. § 424a (1970 ed.),¹ upon a finding that the appellee was receiv-

¹ Section 224 provides, in pertinent part:

"If for any month prior to the month in which an individual attains the age of 62—

"(1) such individual is entitled to benefits under section 423 of this title, and

"(2) such individual is entitled for such month, under a workmen's compensation law or plan of the United States or a State, to periodic benefits for a total or partial disability (whether or not permanent), and the Secretary has, in a prior month, received notice of such entitlement for such month, the total of his benefits under section 423 of this title for such month and of any benefits under section 402 of this title for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount of by which the sum of—

"(3) such total of benefits under sections 423 and 402 of this title for such month, and

"(4) such periodic benefits payable (and actually paid) for such

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

From: Stewart, J.

SUPREME COURT OF THE UNITED STATES

Circulated: No. 70-53 Recirculated: NOV 9 1971

Elliot L. Richardson, Secretary of Health, Education, and Welfare, Appellant,
v.
Raymond Belcher.

On Appeal from the United States District Court for the Southern District of West Virginia.

[November —, 1971]

MR. JUSTICE STEWART delivered the opinion of the Court.

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"(1) such individual is entitled to benefits under section 423 of this title, and

"(2) such individual is entitled for such month, under a workmen's compensation law or plan of the United States or a State, to periodic benefits for a total or partial disability (whether or not permanent), and the Secretary has, in a prior month, received notice of such entitlement for such month,

the total of his benefits under section 423 of this title for such month and of any benefits under section 402 of this title for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

"(3) such total of benefits under sections 423 and 402 of this title for such month, and

"(4) such periodic benefits payable (and actually paid) for such

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

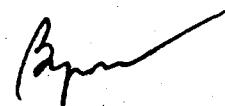
October 29, 1971

Re: No. 70-53 - Richardson v.
Belcher

Dear Potter:

Please join me.

Sincerely,



Mr. Justice Stewart

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 1, 1971

Re: No. 70-53 - Richardson v. Belcher

Dear Potter:

I will try my hand at a dissent.

Sincerely,


T.M.

Mr. Justice Stewart

cc: The Conference

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-53

Elliot L. Richardson, Secretary } On Appeal from the
of Health, Education, and } United States District
Welfare, Appellant, } Court for the South-
v. } ern District of West
Raymond Belcher. } Virginia.

[November —, 1971]

MR. JUSTICE MARSHALL, dissenting.

In my view, the offset provision of 42 U. S. C. § 424a (1970 ed.), 79 Stat. 406, creates an unlawful discrimination under the Due Process Clause of the Fifth Amendment.

Before this 53-year-old appellee became disabled in March 1968, he was supporting his wife and two children on total yearly earnings of approximately \$6,600. Once disabled, he could not work, but he and his family were awarded federal social security disability benefits totalling \$329.70 per month.¹ Because his employer had chosen to set up a workmen's compensation fund, appellee also became entitled to workmen's compensation benefits totalling \$203.60 per month. These were his only forms of disability compensation. Had appellee been allowed to keep his initial award of federal benefits, his income would have totalled nearly \$6,400 a year, somewhat less than he had earned before his disability. But because of the offset provision of 42 U. S. C. § 424a,

¹ The test for disability under the federal statute is a stern one. With an exception for elderly blind people, disability means "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months . . ." 42 U. S. C. § 423 (d)(1).

changes throughout

Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Blackmun

2nd DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____

No. 70-53

Recirculated: _____

Elliot L. Richardson, Secretary } On Appeal from the
of Health, Education, and } United States District
Welfare, Appellant, } Court for the South-
v. } ern District of West
Raymond Belcher. } Virginia.

[November —, 1971]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE BRENNAN joins, dissenting.

In my view, the offset provision of 42 U. S. C. § 424a, 79 Stat. 406, creates an unlawful discrimination under the Due Process Clause of the Fifth Amendment.

Before this 53-year-old appellee became disabled in March 1968, he was supporting his wife and two children on total yearly earnings of approximately \$6,600. Once disabled, he could not work, but he and his family were awarded federal social security disability benefits totalling \$329.70 per month.¹ Because his employer had chosen to set up a workmen's compensation fund, appellee also became entitled to workmen's compensation benefits totalling \$203.60 per month. These were his only forms of disability compensation. Had appellee been allowed to keep his initial award of federal benefits, his income would have totalled nearly \$6,400 a year, somewhat less than he had earned before his disability. But because of the offset provision of 42 U. S. C. § 424a,

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SUPREME COURT OF THE UNITED STATES

No. 70-53

Elliot L. Richardson, Secretary
of Health, Education, and
Welfare, Appellant,
v.
Raymond Belcher.

On Appeal from the
United States District
Court for the South-
ern District of West
Virginia.

[November 22, 1971]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE BRENNAN joins, dissenting.

In my view, the offset provision of 42 U. S. C. § 424a, 79 Stat. 406, creates an unlawful discrimination under the Due Process Clause of the Fifth Amendment.

Before this 53-year-old appellee became disabled in March 1968, he was supporting his wife and two children on total yearly earnings of approximately \$6,600. Once disabled, he could not work, but he and his family were awarded federal social security disability benefits totalling \$329.70 per month.¹ Because his employer had chosen to set up a workmen's compensation fund, appellee also became entitled to workmen's compensation benefits totalling \$203.60 per month. These were his only forms of disability compensation. Had appellee been allowed to keep his initial award of federal benefits, his income would have totalled nearly \$6,400 a year, somewhat less than he had earned before his disability. But because of the offset provision of 42 U. S. C. § 424a,

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 1, 1971

Re: No. 70-53 - Richardson v. Belcher

Dear Potter:

Subject to what Thurgood will have to say,
please join me.

Sincerely,

H. A. B.

Mr. Justice Stewart

cc: The Conference