

The Burger Court Opinion Writing Database

Fornaris v. Ridge Tool Co.

400 U.S. 41 (1970)

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 17, 1971

70-541-543

MEMORANDUM TO THE CONFERENCE

I frankly don't think there's anything we can do about this, but I am circulating the attached copy of a letter from Chief Judge Bailey Aldrich of the First Circuit that is self-explanatory.

A year ago, for reasons that appealed to all of us, we reversed the First Circuit in a case from Puerto Rico and directed the lower courts to hold their hand until the Puerto Rico Supreme Court had authoritatively interpreted its Law 75, the Dealer's Contract Law, which in effect makes contracts with manufacturers indefinitely renewable regardless of any provisions for termination unless the manufacturer has just cause to terminate. The case is Fornaris v. Ridge Tool Co., 400 U.S. 41.

We all agreed that abstention was appropriate because of the peculiar delicacy of the relations of the Federal Courts to Puerto Rico and because the Supreme Court of Puerto Rico had not considered Law 75.

As I understand Judge Aldrich's letter, a long backlog of Law 75 cases is pending in the Federal Courts and will probably be pending there indefinitely for two reasons: (1) the Puerto Rican Supreme Court has not a single case before it under the law, and none is on its way there through the Superior Court and (2) the Chief Justice of Puerto Rico has in any event an antagonistic attitude toward the Federal Courts. But, granted that all this is true, I don't see anything that we can do about it. Perhaps we might discuss it at our conference on January 7.

W. J. B. Jr.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 17, 1971

MEMORANDUM TO THE CONFERENCE

RE: Nos. 541 & 543 - Fornaris v. Ridge Tool Co.

Bill Douglas has suggested that we might ask counsel on both sides to respond to the information we have from Judge Aldrich's letter. I would appreciate the views of the Conference as to this suggestion. I think that something on the order of the attached should produce the information.

W. J. B. Jr.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 28, 1972

MEMORANDUM TO THE CONFERENCE

RE: Fornaris v. Ridge Tool Co., 400 U.S. 41

You may recall that on December 17, I circulated a Memorandum to the Conference enclosing Bailey Aldrich's letter advising us that the above decision had created a problem for the First Circuit Court of Appeals. The decision directed the First Circuit and the Federal District Courts in Puerto Rico to abstain from deciding the constitutionality of Puerto Rico's Dealer's Contract Law, Law 75, pending construction of that law by the Puerto Rico Supreme Court. I attach copies of my memorandum of December 17 and of Bailey's letter of December 14.

Bill Douglas responded to my memorandum that we ought ask counsel in Fornaris to advise us whether any causes are pending in the Puerto Rico courts presenting questions of the construction or constitutionality of Law 75. The Conference

adopted that recommendation. All counsel in Fornaris, and also the Attorney General of Puerto Rico, responded to the Clerk's request for information. They reported that upwards of twelve cases were pending in the Superior Court of Puerto Rico but that the view of that court was that it must assume the constitutionality of Law 75, in the words of the Attorney General, "until a higher court emits a different pronouncement." There was also a case pending in the Supreme Court of Puerto Rico, Firbeck, Inc. v. Penn Card and Paper Co. Bailey wrote me on April 18 the letter attached advising me that this case has been settled so that, to quote Bailey, "we are behind the eight ball again."

The difficulty at bottom seems to be a strained relationship between the First Circuit and the Chief Justice of the Puerto Rico Supreme Court. I am attaching two letters from Bailey dated December 22 and February 15, last, which state his side of it. You will note his deep pessimism that under its present Chief Justice the Supreme Court of Puerto Rico will undertake to decide the questions which we contemplated would be given Law 75 in light of our order in Fornaris to the First Circuit to abstain. If he is

right, this is most unfortunate since the backlog of cases in the federal court awaiting action of the Puerto Rican court now exceeds the thirty that were pending on December 14.

I don't know that we can do anything about this. It does seem intolerable that this attitude of the Puerto Rican courts, if true, should frustrate decision of the constitutional question. Yet I am not clear how we can advise the First Circuit that they may proceed without reference to the restraint we imposed in Fornaris. Any suggestions?

W.J.B. Jr.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 8, 1972

MEMORANDUM TO THE CONFERENCE

RE: Fornaris v. Ridge Tool Co., 400 U.S. 41

I had a telephone conversation this morning with Bailey Aldrich to pass on our conference suggestion for handling the abstention problem raised by the above case. He told me that he doubted that this Fornaris case would itself be a good vehicle, largely because he thinks it's about to be settled. He therefore contemplated having the Chief Judge of the District Court select another case from those being held, to make a record in that case of the situation in the Puerto Rican courts, and based thereon to decide the constitutional issue on its merits. If this works out the matter may get back to us in due course.

W. J. B. Jr.

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

CHAMBERS OF
JUSTICE POTTER STEWART

December 17, 1971

541 & 543 - Fornaris v. Ridge Tool Co.

Dear Bill,

The suggestion of Bill Douglas seems to me a good one, and I think your proposed wording will serve to do the job.

Sincerely yours,

P.S.


Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 20, 1971

Re: Nos. 541 & 543 - Fornaris v.
Ridge Tool Co.

Dear Bill:

Your suggested letter is all
right with me.

Sincerely,



Mr. Justice Brennan

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL


December 20, 1971

Re: Nos. 541 & 543 - Fornaris v. Ridge Tool Co.

Dear Bill:

I agree with your suggested order.

Sincerely,


T.M.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 20, 1971

Re: Nos. 541 & 543, O.T. 1970 - Fornaris v.
Ridge Tool Co.

Dear Bill:

I would go along with your suggestion of December 17. Whether it will produce anything, I do not know.

Sincerely,

H.A.B.
—

Mr. Justice Brennan

cc: The Conference