

The Burger Court Opinion Writing Database

Trbovich v. Mine Workers

404 U.S. 528 (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 14, 1972

Re: No. 71-119 - Trbovich v. United Mine Workers

Dear Thurgood:

Please join me.

Regards,

WEB
WEB

Mr. Justice Marshall

cc: The Conference

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-119

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

Mike Trbovich, Petitioner, } On Writ of Certiorari to
v. } the United States Court
United Mine Workers of } of Appeals for the Dis-
America et al. } trict of Columbia Circuit.

1/11/72

[January —, 1972]

MR. JUSTICE DOUGLAS, dissenting in part.

I join the opinion of the Court to the extent that it holds that Title IV of the Landrum-Griffin Act does not bar intervention by union members, pursuant to Fed. Rule Civ. Proc. 24 (a), in suits initiated by the Secretary of Labor challenging union elections. I differ from the majority, however, in that I would also permit the union members in this case to raise their additional grounds* for setting aside the disputed election. In my view, the limited intervention granted by the majority serves neither the purpose of the liberalizing 1966 amendments to Rule 24, nor the twin purposes of Title IV—to preserve unions from a multiplicity of frivolous election challenges, but also to centralize in a single proceeding such litigation as might be warranted with respect to a single election.

Here, the Secretary has served his screening function. He has decided that petitioner's election challenge is meritorious. The Court concedes, moreover, that the burden on the union to defend against the additional

*These claims both related to alleged manipulation of pensioners by the incumbents. One claim attached so-called "bogus" locals, composed entirely of pensioners, which were "run" by the incumbents. The second claim was that the union president attempted improperly to influence the pensioners' vote by arranging for increased pension benefits just before the election.

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

CHAMBERS OF
JUSTICE WM J. BRENNAN, JR.

January 11, 1972

RE: No. 71-119 - Trbovich v. United Mine
Workers

Dear Thurgood:

I agree.

Sincerely,

Brennan

Mr. Justice Marshall

cc: The Conference

Wm. Brennan

71-119

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 3, 1972

No. 71-119 - Trbovich v. UMW

Dear Thurgood,

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

Sincerely yours,

P.S.
/

Mr. Justice Marshall

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32
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 5, 1972

Re: No. 71-119 - Trbovich v. UMW

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

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U.S. DEPARTMENT OF JUSTICE

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LINEUP - All justices join this opinion
except Douglas J. who has his
own opinion in which he dissents in part

FINAL

~~1st DRAFT~~

SUPREME COURT OF THE UNITED STATES

No. 71-119

Mike Trbovich, Petitioner, } On Writ of Certiorari to
v. } the United States Court
United Mine Workers of } of Appeals for the Dis-
America et al. } trict of Columbia Circuit.

[January ¹⁷, 1972]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

The Secretary of Labor instituted this action under the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U. S. C. § 482 (b), to set aside the election of officers of The United Mineworkers of America (UMWA), held on December 9, 1969. He alleged that the election was held in a manner that violated the LMRDA in numerous respects,¹ and he sought an order requiring a new election to be held under his supervision.

Petitioner, a member of the UMWA, filed the initial complaint with the Secretary that eventually led him to file this suit. Petitioner now seeks to intervene in the litigation, pursuant to Fed. Rule Civ. Proc. 24 (a), in order (1) to urge two additional grounds for setting aside the election,² (2) to seek certain specific safeguards with

¹The complaint alleged that the Union violated the Act by, *inter alia*, failing to use secret ballots, permitting campaigning at the polls, denying candidates the right to have observers at polling places and at the counting of ballots, subjecting members to reprisals in connection with their election activities, failing to conduct elections in certain locals, and using union assets to promote the candidacy of the incumbents.

²Petitioner alleged as additional violations of the Act (1) that the Union required members to vote in certain locals, composed

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 13, 1972

Re: No. 71-119 - Trbovich v. UMW

Dear Thurgood:

Please join me.

Sincerely,

H.A.B.

Mr. Justice Marshall

cc: The Conference

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OFFICE OF THE CLERK OF THE SUPREME COURT