

# The Burger Court Opinion Writing Database

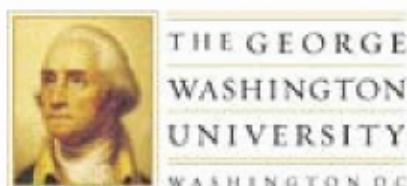
*Trbovich v. Mine Workers*

404 U.S. 528 (1972)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-119

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

[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 W. 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

W. J. BRENNAN, JR.  
71-119  
C. 11

8  
23  
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

Copies to the Conference

*BYR*  
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

Copies to Conference

LINEUP - All justices join this opinion  
except Douglas J. who has his  
own opinion on which he dissent in part  
OK  
MON. - 1/11  
C. P. W.

## FINAL

1st DRAFT

### SUPREME COURT OF THE UNITED STATES

No. 71-119

Mike Trbovich, Petitioner, v. United Mine Workers of America et al. } On Writ of Certiorari to the United States Court of Appeals for the District 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,<sup>1</sup> 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,<sup>2</sup> (2) to seek certain specific safeguards with

<sup>1</sup> The 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 some locals, and using union assets to promote the candidacy of the incumbents.

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

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,

*Ha A*

Mr. Justice Marshall

cc: The Conference