

The Burger Court Opinion Writing Database

Mattz v. Arnett

412 U.S. 481 (1973)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



file
CHAMBERS OF
THE CHIEF JUSTICE

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

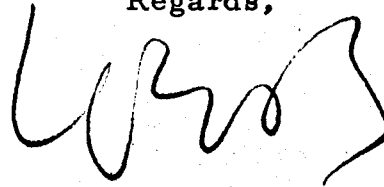
June 7, 1973

Re: No. 71-1182 - Maatz v. Arnett

Dear Harry:

Please join me.

Regards,



Mr. Justice Blackmun

Copies to the Conference

7
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 31, 1973

RE: No. 71-1182 - Mattz v. Arnett

Dear Harry:

I agree.

Sincerely,

Bick

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 31, 1973

RE: No. 71-1182 - Mattz v. Arnett

Dear Harry:

I agree.

Sincerely,

Bill

Mr. Justice Blackmun

cc: The Conference

Harry:

*I found the history fascinating
& a splendid support for the
result you reach. I'm grateful that
you took the time to research it.*

WJB

WJB

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 1, 1973

No. 72-1182 - Mattz v. Arnett

Dear Harry,

Your opinion for the Court is a very thorough and convincing one. I expressed a contrary view at the Conference, but I do not propose to write in dissent. Unless, therefore, someone else writes a dissenting opinion, I shall cheerfully acquiesce in your opinion.

Sincerely yours,

P.S.

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 7, 1973

Re: No. 71-1182 - Mattz v. Arnett

Dear Harry:

Although my tentative vote was the other way at conference, I join your present circulation.

Sincerely,

Byron

Mr. Justice Blackmun

Copies to Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT RECORDS

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

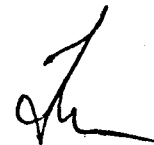
May 31, 1973

Re: No. 71-1182 - Mattz v. Arnett

Dear Harry:

Please join me.

Sincerely,



T.M.

Mr. Justice Blackmun

cc: Conference

7

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 31, 1973

MEMORANDUM TO THE CONFERENCE

Re: No. 71-1182 - Mattz v. Arnett

Herewith is a draft of a proposed opinion for this case. At the oral argument one of us, I think it was Byron, asked a number of questions directed to the navigability of the Klamath River. Counsel were rather indefinite in their answers. After argument the Deputy California Attorney General sent in a letter dated March 28 commenting upon the issue of navigability.

The proposed opinion does not touch upon this question. The issue was raised in Donnelly v. United States, 228 U.S. 243 (1913), and the Court held that, as a matter of state law, the river was not navigable. On rehearing, however, directed to this point, the question was expressly left open and undecided. 228 U.S., at 712.

I have concluded that the resolution of navigability of the Klamath River is not necessary for purposes of the present review and that the issue, if it is pertinent at all, may be taken up on the remand. The determination of navigability should not be difficult, but the consequences of the determination may well entail some work. Certainly, it seems to me, this is not anything for us to undertake without the benefit of briefing and argument.

H. G. B.

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U.S. DEPARTMENT OF JUSTICE

HAB

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 31, 1973

MEMORANDUM TO THE CONFERENCE

Re: No. 71-1182 - Mattz v. Arnett

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(To Mr. Justice Brennan
only)

P.S. Dear Bill:

H.A.B.

Forgive me for being somewhat expansive in this opinion. It seems to be my annual Indian case, and this one proved historically fascinating. As a consequence, I inserted some material that normally would have been omitted. I rationalize by saying that I have to have a little fun in at least one case a year.

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

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

1st DRAFT

From: [redacted], J.

SUPREME COURT OF THE UNITED STATES

Date: 5/31/73

No. 71-1182

Recirculated: _____

Raymond Mattz, Petitioner, } On Writ of Certiorari to
v. } the Court of Appeal of
G. Raymond Arnett, Etc. } California, First Appel-
late District.

[June —, 1973]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

Our decision in this case turns on the resolution of the narrow question whether the Klamath River Indian Reservation in northern California was terminated by Act of Congress or whether it remains "Indian country," within the meaning of 18 U. S. C. § 1151.¹ When

¹ 18 U. S. C. § 1151 defines the term "Indian country" to include, *inter alia*, "all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent"

18 U. S. C. § 1162 (a) provides that, with respect to Indian country within California, that State "shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country . . . to the same extent that such State . . . has jurisdiction over offenses committed elsewhere within the State . . . , and the criminal laws of such State . . . shall have the same force and effect within such Indian country as they have elsewhere within the State" Section 1162 (b) provides, however, "Nothing in this section . . . shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof."

Finally, the California Fish & Game Code, § 12300, as amended, reads:

"Irrespective of any other provision of law, the provisions of this code are not applicable to California Indians whose names are in-

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

mark

June 5, 1973

No. 72-1182 Mattz v. Arnett

Dear Harry:

Please join me in your fine opinion.

Sincerely,

Lewis

Mr. Justice Blackmun

cc: The Conference

lfp/gg

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file

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 1, 1973

Re: No. 71-1182 - Mattz v. Arnett

Dear Harry:

Your quotation in the opinion from Martin Luther has persuaded me to change the view I expressed at Conference, and join your excellent opinion.

Sincerely,

Wm

Mr. Justice Blackmun

Copies to the Conference