

The Burger Court Opinion Writing Database

Trafficante v. Metropolitan Life Insurance Co.

409 U.S. 205 (1972)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



B M
Supreme Court of the United States
Washington, D. C. 20542

CHAMBERS OF
THE CHIEF JUSTICE

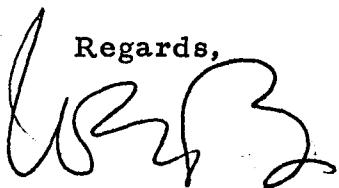
November 30, 1972

Re: 71-708 - Trafficante v. Metropolitan Life Ins. Co.

Dear Bill:

At Conference I indicated I might be able
to join a very narrow reversal but would prefer to
affirm.

I am not yet at rest but will be sometime
next week.

Regards,


Mr. Justice Douglas

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

December 1, 1972

Re: 71-708 - Trafficante v. Metropolitan Life Ins. Co.

Dear Bill:

Although I have difficulty believing Congress
really intended to grant standing as broadly as claimed,
the words are there and they are literally susceptible
of the interpretation the opinion gives them. As re-
vised December 1, I join you.

Regards,

WB

Mr. Justice Douglas

Copies to the Congress

71-708

12/4/72

Supreme Court of the United States
Memorandum

19

January 4, 1973
Decided to go
along with
WOD (as revised)
on Transcript
WTR pulled him
in to one. ^{and} W2B

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

November 20, 1972

Dear Chief:

In your assignment sheet you indicate
that 71-708, Trafficante v. Metropolitan Life
Ins. Co. should be assigned by me.

I'll keep it for myself.

WD
William O. Douglas

Chief Justice

cc: Conference

Please join me

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-708

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

From: Douglas, J.

Circulated: NOV 24 1972

Paul J. Trafficante et al.,
Petitioners,
v.
Metropolitan Life Insurance Company et al.

On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit.

Recirculated:

[December —, 1972]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Two tenants of Parkmerced, an apartment complex in San Francisco, housing about 8,200 residents, filed separate complaints with the Secretary of Housing and Urban Development (HUD) pursuant to § 811 (a)¹ of the Civil Rights Act of 1968. 42 U. S. C. § 3610. One tenant is

¹ Section 810 (a) of the Act provides in relevant part:

"Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter 'person aggrieved') may file a complaint with the Secretary. Complaints shall be in writing and shall contain such information and be in such form as the Secretary requires. Upon receipt of such a complaint the Secretary shall furnish a copy of the same to the person who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (c) of this section, the secretary shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Secretary decides to resolve the complaint, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion."

B
M. J. 4
JANUARY 1973

2nd DRAFT

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

From: Douglas, S.

No. 71-708

Circulated:

Recirculated: DEC 11 1972

Paul J. Trafficante et al.,
Petitioners,
v.
Metropolitan Life Insurance Company et al.

On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit.

[December —, 1972]

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1, 2, 3, 5, 7

3rd DRAFT

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

SUPREME COURT OF THE UNITED STATES From: Douglas, J.

No. 71-708

Circulated: _____

Paul J. Trafficante et al., Petitioners,
v.
Metropolitan Life Insurance Company et al. } Recirculation
On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit.

[December 7, 1972]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Two tenants of Parkmerced, an apartment complex in San Francisco, housing about 8,200 residents, filed separate complaints with the Secretary of Housing and Urban Development (HUD) pursuant to § 810 (a)¹ of the Civil Rights Act of 1968. 42 U. S. C. § 3610. One tenant is

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

December 5, 1972

MEMORANDUM TO THE CONFERENCE:

Since everyone has now been heard from in 71-708, Trafficante v. Metropolitan Life Ins. Co., I talked with the Chief Justice and he suggested this opinion come down December 7, 1972.

William O. Douglas

Conference

cc: Law Clerks

6 Stylistic Changes

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

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 71-708

From: Douglas, J.
Circulated:

Recirculated: 12-6

Paul J. Trafficante et al.,
Petitioners,
v.
Metropolitan Life Insurance Company et al. } On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit.

[December 7, 1972]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Two tenants of Parkmerced, an apartment complex in San Francisco, housing about 8,200 residents, filed separate complaints with the Secretary of Housing and Urban Development (HUD) pursuant to § 810 (a)¹ of the Civil Rights Act of 1968. 42 U. S. C. § 3610. One tenant is

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

November 27, 1972

RE: No. 71-708 - Trafficante v. Metropolitan
Life Insurance Co.

Dear Bill:

I agree.

Sincerely,



Mr. Justice Douglas

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

November 27, 1972

Re: No. 71-708, Paul J. Trafficante et al., v. Metropolitan Life Insurance Company et al.

Dear Bill,

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

Sincerely,

P.S.

Mr. Justice Douglas

Copies to the Conference

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
~~Mr. Justice Marshall~~
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

1st DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

STATES Circulated: 11/27/72

No. 71-708

Recirculated:

Paul J. Trafficante et al.,
Petitioners,
v.
Metropolitan Life Insurance Company et al. } On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit.

[December —, 1972]

MR. JUSTICE WHITE, concurring.

Absent the Civil Rights Act of 1968, I would have great difficulty in concluding that petitioners' complaint in this case presented a case or controversy within the jurisdiction of the District Court under Art. III of the Constitution. But with that statute purporting to give all those who are authorized to complain to the agency the right also to sue in court, I would sustain the statute insofar as it extends standing to those in the position of the petitioners in this case. Cf. *Katzenbach v. Morgan*, 384 U. S. 641, 648-649 (1966); *Oregon v. Mitchell*, 400 U. S. 112, 240, 248-249 (1970). Consequently, I join the Court's opinion and judgment.

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

2nd DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____

No. 71-708

Recirculated: 12-5-72

Paul J. Trafficante et al.,
Petitioners,
v.
Metropolitan Life Insurance Company et al. } On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit.

[December —, 1972]

MR. JUSTICE WHITE, with whom MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL join, concurring.

Absent the Civil Rights Act of 1968, I would have great difficulty in concluding that petitioners' complaint in this case presented a case or controversy within the jurisdiction of the District Court under Art. III of the Constitution. But with that statute purporting to give all those who are authorized to complain to the agency the right also to sue in court, I would sustain the statute insofar as it extends standing to those in the position of the petitioners in this case. Cf. *Katzenbach v. Morgan*, 384 U. S. 641, 648-649 (1966); *Oregon v. Mitchell*, 400 U. S. 112, 240, 248-249 (1970). Consequently, I join the Court's opinion and judgment.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 27, 1972

Re: No. 71-708 - Trafficante v. Met. Life

Dear Bill:

Please join me.

Sincerely,


T.M.

Mr. Justice Douglas

cc: Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 4, 1972

Re: No. 71-708 - Trafficante v. Metropolitan Life
Insurance Co.

Dear Byron:

If it is all right with you, I would like to be joined in your concurring opinion circulated November 27.

Sincerely,

H. A. B.

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

December 1, 1972

Re: No. 71-708 Trafficante v. Metropolitan

Dear Bill and Byron:

I concur in Bill's opinion for the Court and also in Byron's concurring opinion, which identifies sharply the basis of my vote in this case.

This means, I suppose, that I "join" you both.

Sincerely,



Mr. Justice Douglas
Mr. Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

November 30, 1972

Re: 71-708 - Trafficants v. Metropolitan Life

Dear Bill:

As you will recall, my vote at Conference was somewhat shaky on this case. If the judgment is to be reversed, I would like to see the holding confined to tenants of the same project which is charged with discrimination, and therefore I don't believe I will be able to join your opinion as presently written.

Sincerely

BDW

Mr. Justice Douglas

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

December 4, 1972

Re: No. 71-708 - Trafficante v. Metropolitan Life

Dear Bill:

Please join me.

Sincerely,

WR

Mr. Justice Douglas

Copies to the Conference