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NLRB v. Textile Workers

409 U.S. 213 (1972)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

DEC 1 1972

No. 71-711

Circuit Court of Appeals

Rehearing

National Labor Relations Board,
Petitioner,
v.
Granite State Joint Board, Textile Workers Union of America,
Local 1029, AFL-CIO.

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

[December —, 1972]

MR. CHIEF JUSTICE BURGER, concurring.

I join the Court's opinion because for me the institutional needs of the Union, important though they are, do not outweigh the rights and needs of the individual. The balance is close and difficult; unions have need for solidarity and at no time is that need more pressing than under the stress of economic conflict. Yet we have given special protection to the associational rights of individuals in a variety of contexts; through § 7 of the Labor Act, Congress has manifested its concern with those rights in the specific context of our national scheme of collective bargaining. Where the individual employee has freely chosen to exercise his legal right to abandon the privileges of union membership, it is not for us to impose the obligations of continued membership.

Supreme Court of the United States

Memorandum

the United States
S. C. 20343

November 24, 1972

November 24, 1972

Dear Byron:

Re: 71-711 NLRB v. Granite State

Would the addition of the following meet
your question?

Add after "from the union" line 8 page 4:

"nor concerning the payment of dues
while the maintenance of membership
issue was being resolved."

S. O. D.

Mr. Justice Douglas

Mr. Justice White

Copies to reference

Bill,
Re p. 4 statement re post-employment status it would
seem that the payment of dues would not be required
in this maintenance of membership situation.
(m)

WV

Justice
 Brennan
 Stewart
 Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES ^{Justice Douglas, J.}

No. 71-711

Circulated: 11-24

Recirculated: _____

National Labor Relations Board,
 Petitioner,
 v.
 Granite State Joint Board, Textile
 Workers Union of America,
 Local 1029, AFL-CIO.

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

[December —, 1972]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Respondent is a union that had a collective-bargaining agreement with an employer which contained a maintenance-of-membership clause providing that members were, as a condition of employment, to remain in good standing "as to payment of dues" for the duration of the contract. Neither the contract nor the Union's constitution or bylaws contained any provision defining or limiting the circumstances under which a member could resign. A few days before the collective agreement expired, the Union membership voted to strike if no agreement was reached by a given date. No agreement was reached in the specified period so the strike and attendant picketing commenced. Shortly the Union held a meeting at which the membership resolved that any member aiding or abetting the employer during the strike would be subject to a \$2,000 fine.

About six weeks later two members sent the Union their letters of resignation. Six months or more later 29 other members resigned. These 31 employees returned to work.

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

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-711

From
 Circulation

Recirculated: NOV 27 1972

National Labor Relations Board,
 Petitioner,
 v.
 Granite State Joint Board, Textile
 Workers Union of America,
 Local 1029, AFL-CIO.

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

[December —, 1972]

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About six weeks later two members sent the Union their letters of resignation. Six months or more later 29 other members resigned. These 31 employees returned to work.

3

Joined 1/1, 2, 3

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

By Mr. Justice Douglas, J.

No. 71-711

Circulated: _____

Recirculated: *12-6*

National Labor Relations Board,
Petitioner,
v.
Granite State Joint Board, Textile Workers Union of America,
Local 1029, AFL-CIO.

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

[December 7, 1972]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Respondent is a union that had a collective-bargaining agreement with an employer which contained a maintenance-of-membership clause providing that members were, as a condition of employment, to remain in good standing "as to payment of dues" for the duration of the contract. Neither the contract nor the Union's constitution or bylaws contained any provision defining or limiting the circumstances under which a member could resign. A few days before the collective agreement expired, the Union membership voted to strike if no agreement was reached by a given date. No agreement was reached in the specified period so the strike and attendant picketing commenced. Shortly thereafter the Union held a meeting at which the membership resolved that any member aiding or abetting the employer during the strike would be subject to a \$2,000 fine.

About six weeks later, two members sent the Union their letters of resignation. Six months or more later 29 other members resigned. These 31 employees returned to work.

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U.S. SUPREME COURT REPORTS

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. November 27, 1972

RE: No. 71-711 - N.L.R.B. v. Granite State
Joint Board

Dear Bill:

I agree.

Sincerely,

Bill

Mr. Justice Douglas

cc: The Conference

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

MEMBERS OF
BYRON R. WHITE

November 24, 1972

Re: No. 71-711 - NLRB v. Granite State Joint
Board, Textile Workers Union

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Douglas

Copies to Conference

Bill,

Re p. 45 statement re post resignation status, it would
seem that the payment of dues could still be required
in this maintenance / membership situation. *W*

BR

WB

WD

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

November 27, 1972

Re: No. 71-711 - NLRB v. Granite State Joint Bd

Dear Bill:

My problem with your circulation--which is really not a problem at all--was not with the first paragraph on page four but with the last sentence of the second paragraph on that page. The dissolution of the union member relationship does not end the obligation to pay dues in a union shop situation, does it?

Sincerely,



Mr. Justice Douglas

W-1

38
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

November 27, 1972

Re: 71-711, National Labor Relations Board v.
Granite State Joint Board

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

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OFFICE OF THE CLERK OF THE SUPREME COURT

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 27, 1972

Re: No. 71-711 - NLRB v. Granite State Jt. Bd.

Dear Bill:

Please join me.

Sincerely,


T.M.

Mr. Justice Douglas

cc: Conference

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U.S. SUPREME COURT RECORDS

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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: Blackmun, J.

SUPREME COURT OF THE UNITED STATES

Circulated: 1/29/72

No. 71-711

Recirculated:

National Labor Relations Board, Petitioner, v. Granite State Joint Board, Textile Workers Union of America, Local 1029, AFL-CIO.	}	On Writ of Certiorari to the United States Court of Appeals for the First Circuit.
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[December —, 1972]

MR. JUSTICE BLACKMUN, dissenting.

On September 14, 1968, just six days prior to the expiration of the collective-bargaining agreement then in force, the Union membership voted to strike. The strike began September 20. On September 21 the membership unanimously¹ adopted a resolution that anyone aiding or abetting the company during the strike would be subject to a fine not exceeding \$2,000. Each of the employees involved here voted for both of these resolutions and participated in the strike.² Each was a member of the Union during the period in which the votes were taken and the strike began. Membership was voluntary,

¹ There is a mild discrepancy in the record as to whether the vote on the strikebreaking resolution was unanimous. In his first opinion, the trial examiner indicated that the vote was unanimous. (J. S. 23a.) In a second opinion the examiner indicated that there was one dissenting vote.

² The parties stipulated before the trial examiner that all 31 employees participated in the strike vote, and voted in favor of the strike. A. 45. It is less clear whether each of the employees voted in favor of the fine. These are matters that would be resolved in the state court proceedings.

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

2nd DRAFT

From: Blackmun, J.

SUPREME COURT OF THE UNITED STATES

No. 71-711

Circulated: _____

Recirculated: 11/30/72

National Labor Relations Board,
Petitioner,
v.
Granite State Joint Board, Textile
Workers Union of America,
Local 1029, AFL-CIO.

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

[December —, 1972]

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² The parties stipulated before the trial examiner that all 31 employees participated in the strike vote, and voted in favor of the strike. A. 45. It is less clear whether each of the employees voted in favor of the fine. These are matters that would be resolved in the state court proceedings.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

November 27, 1972

Re: No. 71-711 NLRB v. Granite State Joint Board

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Douglas

cc: The Conference

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U.S. DEPARTMENT OF JUSTICE

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

November 28, 1972

Re: No. 71-711 - NLRB v. Granite State Joint Board

Dear Bill:

Please join me.

Sincerely,

Mr. Justice Douglas

Copies to the Conference

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U.S. DEPARTMENT OF JUSTICE