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United States v. Mason

412 U.S. 391 (1973)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University



M

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

CHAMBERS OF
THE CHIEF JUSTICE

May 31, 1973

Re: No. 72-606 - Oklahoma v. Mason
No. 72-654 - U. S. v. Mason

Dear Thurgood:

Please join me.

Regards,

WR03

Mr. Justice Marshall

Copies to the Conference

112-7

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

Ready

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

May 24, 1973

Dear Thurgood:

In 72-606 and 72-654, Oklahoma v. Mason I would join this opinion if the two paragraphs that start on p. 8 were deleted. If not, just note that I concur in the result, not reaching the question posed as to the result ^{how} West not been on the books.

W. O. Douglas
William O. Douglas

Mr. Justice Marshall

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 25, 1973

RE: Nos. 72-606 & 72-654 Oklahoma &
United States v. Mason

Dear Thurgood:

I agree.

Sincerely,

Brennan

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 24, 1973

Re: No. 72-606 and 72-654, Oklahoma v. Mason

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

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 24, 1973

Re: Nos. 72-606 and 72-654 - Oklahoma v. Mason

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

Copies to Conference

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

1st DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

circulated: MAY 24 1973

Nos. 72-606 AND 72-654

Recirculated: _____

State of Oklahoma,
 Petitioner,
 72-606 v.
 Archie L. Mason and Mar-
 garet R. Mason, etc.,
 et al.
 United States, Petitioner,
 72-654 v.
 Archie L. Mason et al.

On Writs of Certiorari to
 the United States Court
 of Claims.

[May —, 1973]

MR. JUSTICE MARSHALL delivered the opinion of the
 Court.

The issue in these cases is whether a trustee in the
 course of administering its fiduciary obligations is en-
 titled to rely on a directly relevant decision of this Court
 which has neither been overruled nor questioned. The
 Court of Claims ruled that the United States breached
 its fiduciary duty by failing to resist payment of Okla-
 homa's estate tax on certain trust property held by the
 United States acting as trustee for the benefit of the
 Osage Indians. The Court of Claims recognized that
 this Court, in *West v. Oklahoma Tax Comm'n*, 334 U. S.
 717 (1948), had squarely upheld the validity of Okla-
 homa's inheritance tax as applied to restricted Osage
 Indians. But the lower court believed that *West* had
 been so undermined by later decisions of this and other
 courts that the United States had an obligation to chal-
 lenge its continuing validity. Since the court also be-
 lieved that such a challenge would have been successful,

W8

1, 8, 9

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

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

Circulated:

Recirculated: JUN 1 1973

Nos. 72-654 AND 72-606

United States, Petitioner

72-654 v.

Archie L. Mason et al.

State of Oklahoma
Petitioner

72-606 v.

Archie L. Mason and Margaret R. Mason, et al.

On Writs of Certiorari to
the United States Court
of Claims.

[May --, 1973]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

The issue in these cases is whether a trustee in the course of administering its fiduciary obligations is entitled to rely on a directly relevant decision of this Court which has neither been overruled nor questioned. The Court of Claims ruled that the United States breached its fiduciary duty by failing to resist payment of Oklahoma's estate tax on certain trust property held by the United States acting as trustee for the benefit of the Osage Indians. The Court of Claims recognized that this Court, in *West v. Oklahoma Tax Comm'n*, 334 U. S. 717 (1948), had squarely upheld the validity of Oklahoma's inheritance tax as applied to restricted Osage Indians. But the lower court believed that *West* had been so undermined by later decisions of this and other courts that the United States had an obligation to challenge its continuing validity. Since the court also believed that such a challenge would have been successful,

WB

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 29, 1973

Re: No. 72-606 - Oklahoma v. Mason
No. 72-654 - United States v. Mason

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

Copies to the Conference

(To Mr. Justice Marshall only)

P.S. Dear Thurgood:

This question is asked out of curiosity. I realize that the Oklahoma petition for certiorari has the lower number. On the other hand the original action was against the United States, and Oklahoma was brought in only on the Government's third party claim. I wonder, therefore, whether No. 72-654 ought not to be the case's title, with No. 72-606 referred to the footnote the Reporter's Office usually prepares. What my suggestion amounts to, for the present draft, is that the double title on page 1 be inverted. This, however, is not at all important, and I leave its resolution to you.

H.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 24, 1973

No. 72-606 Oklahoma v. Mason
No. 72-654 U. S. v. Mason

Dear Thurgood:

Please join me.

Sincerely,

Lewis

Mr. Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 25, 1973

Re: Nos. 72-606 and 72-654 - Oklahoma v. Mason
and United States v. Mason

Dear Thurgood:

Please join me.

Sincerely,

Mr. Justice Marshall

Copies to the Conference