

The Burger Court Opinion Writing Database

Hall v. Cole

412 U.S. 1 (1973)

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

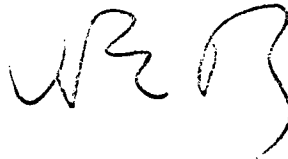
May 8, 1973

Re: No. 72-630 - Hall v. Cole

Dear Bill:

Please join me.

Regards,

A handwritten signature in dark ink, appearing to be 'WRB', written in a cursive, stylized script.

Mr. Justice Brennan

Copies to the Conference.

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

CHAMBERS OF
THE CHIEF JUSTICE

May 16, 1973

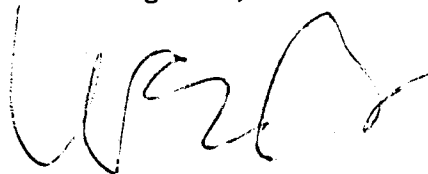
Re: No. 72-630 - Hall v. Cole

Dear Bill:

On receiving Harry's memo of May 14 I re-examined Mills and I confess that I, too, think the opinion goes beyond the need and presses hard on Mills.

Please show me also as joining in the result.

Regards,



Mr. Justice Brennan

Copies to the Conference

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W

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

CHAMBERS OF
THE CHIEF JUSTICE

May 17, 1973

Re: No. 72-630 - Hall v. Cole

Dear Bill:

I am now satisfied and join your circulation of
today's date.

Regards,

W

Mr. Justice Brennan

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3
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

April 27, 1973

Dear Bill:

In 72-630, Hall v. Cole please join
me in your opinion.


William O. Douglas

Mr. Justice Brennan

cc: The Conference

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Brennan, J.

Circulated: 4/27/71

No. 72-630

Recirculated: _____

Paul Hall, Etc., et al.,
Petitioners,
v.
John Cole. } On Writ of Certiorari to the
United States Court of Ap-
peals for the Second Circuit.

[May —, 1973]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

This case requires us to consider the propriety of an award of counsel fees to a successful plaintiff in a suit brought under § 102 of the Labor-Management Reporting and Disclosure Act of 1959, 29 U. S. C. § 412.¹ On August 6, 1962, at a regular meeting of the membership of petitioner Seafarers International Union of North America—Atlantic, Gulf, Lakes and Inland Waters District, respondent introduced a set of resolutions alleging various instances of undemocratic actions and short-sighted policies on the part of union officers. The resolutions were defeated and, on November 26, 1962, respondent was expelled from the union on the ground that his presentation of the resolutions violated a union rule proscribing "deliberate and malicious vilification with regard to the execution or the duties of any office or job." After exhausting his intra-union remedies, respondent

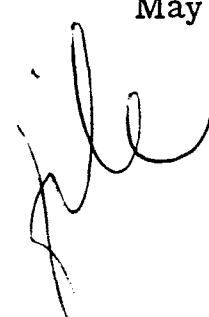
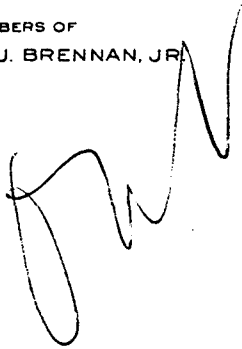
¹ Section 102 of the Act, 29 U. S. C. § 412, provides in pertinent part:

"Any person whose rights secured by the provisions of this subchapter have been infringed by any violation of this subchapter may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate."

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 16, 1973



MEMORANDUM TO THE CONFERENCE

RE: No. 72-630 Hall v. Cole

In view of the objection made by Harry and joined by the Chief to the two paragraphs relying on the private Attorney General rationale, I am deleting those paragraphs. With those omissions, hopefully the opinion can come down next Monday.

W. J. B. Jr.

To: The Chief Justice
 Mr. Warren
 Mr. Burger
 Mr. Black
 Mr. Brennan
 Mr. White
 Mr. Marshall
 Mr. Harlan
 Mr. Tamm
 Mr. Stewart
 Mr. Goldwater
 Mr. Felt
 Mr. Casper
 Mr. Callahan
 Mr. Conrad
 Mr. DeLoach
 Mr. Evans
 Mr. Gale
 Mr. Rosen
 Mr. Sullivan
 Mr. Tavel
 Mr. Trotter
 Mr. Tele. Room
 Mr. Holmes
 Miss Gandy

2d
 1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-630

Circulated: _____

Recirculated: 5/16

Paul Hall, Etc., et al.,
 Petitioners,
 v.
 John Cole.

On Writ of Certiorari to the
 United States Court of Ap-
 peals for the Second Circuit.

[May —, 1973]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

This case requires us to consider the propriety of an award of counsel fees to a successful plaintiff in a suit brought under § 102 of the Labor-Management Reporting and Disclosure Act of 1959, 29 U. S. C. § 412.¹ On August 6, 1962, at a regular meeting of the membership of petitioner Seafarers International Union of North America—Atlantic, Gulf, Lakes and Inland Waters District, respondent introduced a set of resolutions alleging various instances of undemocratic actions and short-sighted policies on the part of union officers. The resolutions were defeated and, on November 26, 1962, respondent was expelled from the union on the ground that his presentation of the resolutions violated a union rule proscribing "deliberate and malicious vilification with regard to the execution or the duties of any office or job." After exhausting his intra-union remedies, respondent

¹ Section 102 of the Act, 29 U. S. C. § 412, provides in pertinent part:

"Any person whose rights secured by the provisions of this subchapter have been infringed by any violation of this subchapter may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate."

75, 6, 8, 13, 14

To: The Chief Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Brennan, J.

No. 72-630

Circulated: _____

Recirculated: 5/1

Paul Hall, Etc., et al.,
Petitioners,
v.
John Cole.

} On Writ of Certiorari to the
United States Court of Ap-
peals for the Second Circuit.

[May —, 1973]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

This case requires us to consider the propriety of an award of counsel fees to a successful plaintiff in a suit brought under § 102 of the Labor-Management Reporting and Disclosure Act of 1959, 29 U. S. C. § 412.¹ On August 6, 1962, at a regular meeting of the membership of petitioner Seafarers International Union of North America—Atlantic, Gulf, Lakes and Inland Waters District, respondent introduced a set of resolutions alleging various instances of undemocratic actions and short-sighted policies on the part of union officers. The resolutions were defeated and, on November 26, 1962, respondent was expelled from the union on the ground that his presentation of the resolutions violated a union rule proscribing "deliberate and malicious vilification with regard to the execution or the duties of any office or job." After exhausting his intra-union remedies, respondent

¹ Section 102 of the Act, 29 U. S. C. § 412, provides in pertinent part:

"Any person whose rights secured by the provisions of this subchapter have been infringed by any violation of this subchapter may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate."

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 21, 1973

MEMORANDUM TO THE CONFERENCE

RE: Cases held for No. 72-630 Hall v. Cole

Two cases were held for Hall, United Mine Workers of America v. Yablonski, No. 72-679, and Screen Extras Guild v. Kerr, No. 72-1059. In these cases, respectively, the Courts of Appeals for the District of Columbia and Ninth Circuits held that an award of attorneys' fees was permissible under § 102 of the LMRDA. This is, of course, precisely what we held in Hall. Thus, I recommend that both of the petitions for certiorari be denied.

W. J. B. Jr.

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 27, 1973

Re: No. 72-630, Hall v. Cole

Dear Bill,

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

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to the Conference

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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

SUPREME COURT OF THE UNITED STATES

White, J.

No. 72-630

Circulated: 5-3-73

Recirculated: _____

Paul Hall, Etc., et al.,
Petitioners,
v.
John Cole.

} On Writ of Certiorari to the
United States Court of Ap-
peals for the Second Circuit.

[May —, 1973]

MR. JUSTICE WHITE, dissenting.

I would need a far clearer signal from Congress than we have here to permit awarding attorneys' fees in member-union litigation, which so often involves private feuding having no general significance. The award of fees in the occasionally successful and meritorious case will not be worth the litigation the Court's decision will invite and foster.

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

SUPREME COURT OF THE UNITED STATES

From: White, J.

Circulated: _____

No. 72-630

Recirculated: 5-1

Paul Hall, Etc., et al.,
Petitioners,
v.
John Cole.

} On Writ of Certiorari to the
United States Court of Ap-
peals for the Second Circuit.

[May —, 1973]

MR. JUSTICE WHITE, with whom MR. JUSTICE REHN-
QUIST joins, dissenting.

I would need a far clearer signal from Congress than we have here to permit awarding attorneys' fees in member-union litigation, which so often involves private feuding having no general significance. The award of fees in the occasionally successful and meritorious case will not be worth the litigation the Court's decision will invite and foster.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 3, 1973

Re: No. 72-630 - Hall v. Cole

Dear Bill:

Please note on your opinion that
I did not participate in this case.

Sincerely,



T.M.

Mr. Justice Brennan

cc: Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 14, 1973

Re: No. 72-630 - Hall v. Cole

Dear Bill:

My vote in this case has been delayed because, frankly, I have difficulty in distilling from John's opinion in Mills what is here described as the second exception "recognized in Mills," page 6, namely, the private attorney general thesis vindicating a "highest priority" policy, using the language of Newman. I am not sure that this is at all clear from Mills, although lower courts have espoused the theory. It is my reaction, therefore, that we really are giving Mills a hefty expansion, perhaps unnecessarily so in the light of the facts of the present case, and we all should make sure that we are aware of this and of its implications for the future. Whether the extension will be difficult to control in cases yet to come, I do not know. The precedent's application to environmental cases comes immediately to mind.


I am willing to embark on this expedition, at least for now and to this extent. This being so, I concur in the result and shall appreciate your noting me to that effect at the conclusion of your opinion.

Sincerely,

Harry

Mr. Justice Brennan

cc: The Conference



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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 17, 1973

Re: No. 72-630 - Hall v. Cole

Dear Bill:

Please join me now in your recirculation of May 17.

Sincerely,



Mr. Justice Brennan

Copies to the Conference

112.6

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 30, 1973

Re: No. 72-630 Hall v. Cole

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 3, 1973

Re: No. 72-630 - Hall v. Cole

Dear Byron:

Please join me in your dissent.

Sincerely,



Mr. Justice White

Copies to the Conference

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