

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

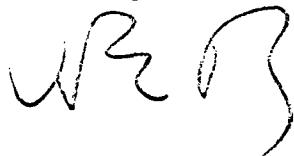
May 8, 1973

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

Dear Bill:

Please join me.

Regards,



Mr. Justice Brennan

Copies to the Conference.

W
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,

WZ

Mr. Justice Brennan

Copies to the Conference

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,

WB

Mr. Justice Brennan

Copies to the Conference

5
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

5

1st DRAFT

Please note on
your agenda and
call for public rule
in this case

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

SUPREME COURT OF THE UNITED STATES

No. 72-630

From: Brennan, J.

Circulated: 4/27/71

Recirculated: _____

Paul Hall, Etc., et al.,
Petitioners,
".,
John Cole. } On Writ of Certiorari to the
United States Court of Appeals 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 shortsighted 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.

~~1st DRAFT~~

SUPREME COURT OF THE UNITED STATES

No. 72-630

Simulated

Test results date 5/16

Paul Hall, Etc., et al., Petitioners, v. John Cole, On Writ of Certiorari to the United States Court of Appeals 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

² 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."

7/5, 6, 8, 13, 14

To: The Chief Justice
Mr. Justice Black
Mr. Justice Clark
Mr. Justice Douglas
Mr. Justice Frankfurter
Mr. Justice Harlan
Mr. Justice Hugo Black
Mr. Justice Rehnquist
Mr. Justice White

3rd DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____

No. 72-630

Recirculated: 5/11

Paul Hall, Etc., et al.,
Petitioners, } On Writ of Certiorari to the
v. } United States Court of Ap-
John Cole. } 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 shortsighted 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 W. J. BRENNAN, JR.

May 21, 1973

MEMORANDUM TO THE CONFERENCE

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

Scru

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.

WD

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,

PS

Mr. Justice Brennan

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

SUPREME COURT OF THE UNITED STATES

White, J. Circulated: 5-3-1

No. 72-630

Recirculated: _____

Paul Hall, Etc., et al.,
Petitioners,
v.
John Cole. } On Writ of Certiorari to the
United States Court of Appeals 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: S-1

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

[May —, 1973]

MR. JUSTICE WHITE, with whom MR. JUSTICE REHNQUIST 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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

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

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,



Mr. Justice Brennan

cc: The Conference

S. B.

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,

Harry

Mr. Justice Brennan

Copies to the Conference

112. 4

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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,

Rehn

Mr. Justice White

Copies to the Conference