

The Burger Court Opinion Writing Database

Department of Agriculture v. Murry
413 U.S. 508 (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

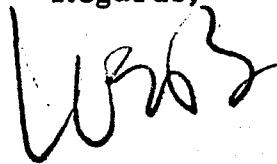
June 18, 1973

Re: 72-848 - U. S. Dept. of Agriculture v. Murry

Dear Bill:

Please join me in your dissent.

Regards,



Mr. Justice Rehnquist

Copies to the Conference

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

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Douglas, J.

No. 72-848

Circulated: 5-21-73

Recirculated: _____

United States Department of
Agriculture et al.,
Appellants,
v.
Lula Mae Murry et al.

On Appeal from the
United States District
Court for the District
of Columbia.

[May —, 1973]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The Food Stamp Act, 7 U. S. C. § 2011 *et seq.* as amended in 1971, 84 Stat. 2045, has been applied to these appellees so as to lead the three-judge District Court to hold one provision of it unconstitutional. 3487 Supp. We noted probable jurisdiction. 407 U. S. —.

Appellee Murry has two sons and ten grandchildren in her household. Her monthly income is \$57.50, which comes from her ex-husband as support for her sons. Her expenses far exceed her monthly income. By payment, however, of \$11 she received \$128 in food stamps. But she has now been denied food stamps because her ex-husband (who has remarried) had claimed her two sons and one grandchild as tax dependents in his 1971 income tax return. That claim, plus the fact that her eldest son is 19 years old, disqualified her household for food stamps under § 5 (b) of the Act.¹ Appellee Alderette is in com-

¹ Section 5 (b) of the Act provides in part: "Any household which includes a member who has reached his eighteenth birthday and *who is claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household*, shall be ineligible to participate in any food stamp program established pursuant to this chapter during the tax period such dependency is

B —
stylistic
changes 72-534

4th DRAFT

SUPREME COURT OF THE UNITED STATES

*You have concurred
in this*

No. 72-848

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: _____

Sanitized: 6-11

United States Department of
Agriculture et al.,
Appellants,
v.
Lula Mae Murry et al.

On Appeal from the
United States District
Court for the District
of Columbia.

[May —, 1973]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

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file
6

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

6th DRAFT

From: Douglas, J.

SUPREME COURT OF THE UNITED STATES

No. 72-848

Circulated:

Recirculated:

6-19

United States Department of
Agriculture et al.,
Appellants,
v.
Lula Mae Murry et al.

On Appeal from the
United States District
Court for the District
of Columbia.

[May —, 1973]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The Food Stamp Act, 7 U. S. C. § 2011 *et seq.* as amended in 1971, 84 Stat. 2045, has been applied to these appellants so as to lead the three-judge District Court to hold one provision of it unconstitutional. 3487 Supp. We noted probable jurisdiction. 407 U. S. —.

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4 and Stylistic

7th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-848

From: *Justice Douglas, Mr.*

Circulated: _____

United States Department of
Agriculture et al.,
Appellants,
v.
Lula Mae Murry et al.

On Appeal ~~rehearing~~ rehearing: 6-22
United States District
Court for the District
of Columbia.

[June 25, 1973]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The Food Stamp Act, 7 U. S. C. § 2011 *et seq.* as amended in 1971, 84 Stat. 2045, has been applied to these appellees so as to lead the three-judge District Court to hold one provision of it unconstitutional. 348 F. Supp. 242. We noted probable jurisdiction. 407 U. S. ____.

Appellee Murry has two sons and ten grandchildren in her household. Her monthly income is \$57.50, which comes from her ex-husband as support for her sons. Her expenses far exceed her monthly income. By payment, however, of \$11 she received \$128 in food stamps. But she has now been denied food stamps because her ex-husband (who has remarried) had claimed her two sons and one grandchild as tax dependents in his 1971 income tax return. That claim, plus the fact that her eldest son is 19 years old, disqualified her household for food stamps under § 5 (b) of the Act.¹ Appellee Alderette is in com-

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77-534

8th 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, J.

No. 72-848

Circulated:

United States Department of
Agriculture et al.,
Appellants,
v.
Lula Mae Murry et al.

On Appeal from the
United States District
Court for the District
of Columbia.

Recirculated: 6-22

[June 25, 1973]

113-5
MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The Food Stamp Act, 7 U. S. C. § 2011 *et seq.* as amended in 1971, 84 Stat. 2045, has been applied to these appellees so as to lead the three-judge District Court to hold one provision of it unconstitutional. 348 F. Supp. 242. We noted probable jurisdiction. 407 U. S. —.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. May 22, 1973

RE: No. 72-848 U.S. Dept. of Agriculture
v. Murry, et al.

Dear Bill:

I agree.

Sincerely,



Mr. Justice Douglas

cc: The Conference

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

— No. 72-848, United States Department of Agriculture v. Murry
From: Stewart, J.

MR. JUSTICE STEWART, concurring.

Circulated: JUN 15 1973

Recirculated: _____

The food stamp program was established in 1964 for the twin purposes of promoting the agricultural economy and alleviating hunger and malnutrition among the needy members of "the other America." 7 U.S.C. § 2011. Under this program, currently needy households whose members comply with a work requirement, 7 U.S.C. §§ 2014 (b), (c), are entitled to purchase enough food stamps to provide those households with nutritionally adequate diets. In 1971, Congress became concerned with the possibility that non-needy households were receiving food stamps, and its response was the enactment of Pub. L. 91-671. While the curbing of abuses in the administration of a government program is assuredly a legitimate purpose, that statute has given rise to constitutional questions in the present case and its companion, United States Department of Agriculture v. Moreno, Ante.

The challenged provision in the present case is § 5(b) of the Food Stamp Act, as amended, 7 U.S.C. 2014 (b), 84 Stat.

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

printed
1st / DRAFT

SUPREME COURT OF THE UNITED STATES

From: Stewart, J.

No. 72-848

Circulated: JUN 19 1973

Recirculated: _____

United States Department of Agriculture et al.,
Appellants,
v.
Lula Mae Murry et al.

On Appeal from the United States District Court for the District of Columbia.

[June —, 1973]

MR. JUSTICE STEWART, concurring.

The food stamp program was established in 1964 for the twin purposes of promoting the agricultural economy and alleviating hunger and malnutrition among the needy members of "the other America." 7 U. S. C. § 2011. Under this program, currently needy households whose members comply with a work requirement, 7 U. S. C. §§ 2014 (b), (c), are entitled to purchase enough food stamps to provide those households with nutritionally adequate diets. In 1971, Congress became concerned with the possibility that non-needy households were receiving food stamps, and its response was the enactment of Pub. L. 91-671. While the curbing of abuses in the administration of a government program is assuredly a legitimate purpose, that statute has given rise to constitutional questions in the present case and its companion, *United States Department of Agriculture v. Moreno, ante*.

The challenged provision in the present case is § 5 (b) of the Food Stamp Act, as amended, 7 U. S. C. § 2014 (b), 84 Stat. 2049. That section renders ineligible for food stamps any household that includes a member over 18 years of age who has been claimed as a tax dependent by a taxpayer who is not himself eligible for the stamps. What little legislative history there is suggests that the

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 7, 1973

Re: No. 72-848 - U. S. Dept of Agriculture v.
Murry

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Douglas

Copies to Conference

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

Calculated: 11/4 1973

No. 72-848

Recirculated:

United States Department of Agriculture et al., Appellants, v. Lula Mae Murry et al. On Appeal from the United States District Court for the District of Columbia.

[June — 1973]

MR. JUSTICE MARSHALL, concurring.

I join the opinion of the Court. I wish to state briefly what I believe are the analytic underpinnings of that opinion. One aspect of fundamental fairness, guaranteed by the Due Process Clause of the Fifth Amendment, is that individuals similarly situated must receive the same treatment by the Government. As Mr. Justice Jackson put it, the Government "must exercise [its] powers so as not to discriminate between [its] inhabitants except upon some reasonable differentiation fairly related to the object of the regulation." *Railway Express Agency v. New York*, 336 U. S. 112 (1949) (concurring opinion). It is a corollary of this requirement that, in order to determine whether persons are indeed similarly situated, "such procedural protections as the situation demands" must be provided. *Morrissey v. Brewer*, 408 U. S. 471, 481 (1972). Specifically, we must decide whether, considering the private interest affected and the governmental interest sought to be advanced, a hearing must be provided to one who claims that the application of some general provision of the law aimed at certain abuses will not in fact lower the incidence of those abuses but will instead needlessly harm him. Cf. *Reed v. Reed*, 404 U. S. 71 (1971); *Vlandis v. Kline*, ante. In short, where the private interests affected are very important and

W

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 13, 1973

Re: No. 72-848 - U. S. Dept. of Agri. v. Murry

Dear Bill:

As my concurring opinion indicates,
I join your opinion for the Court in this case.

Sincerely,



T.M.

Mr. Justice Douglas

cc: Conference

No. 72-848 - United States Department of Agriculture

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

MR. JUSTICE BLACKMUN, dissenting.

Section 5(b) of the Food Stamp Act, which the Court today

From: Blackmun J.

holds unconstitutional, is not happily drafted and surely is not the
kind of statute that attracts sympathetic review. Its purposes, however,
are conceded to be laudatory. And, indeed, they are, for the statute
seeks to prevent widespread abuse of the federal food stamp program
by non-indigents and college students, with the consequent denial of the
full benefit of the program to those seriously in need of assistance.

Circulated: 4/19/73

Recirculated:

The Court, however, invalidates § 5(b) for, apparently, two
reasons. The first is that tax dependency in one calendar year is tied
to the subject's lack of need in the following year, and this, it is said,
has no rational connection. The second, although it may not be clearly
articulated, is that all that is needed to disqualify a household is the
presence in it of a person over 18 who is claimed as a dependent for
federal income tax purposes by someone outside the household. That
this is a reason is quite apparent from the Court's special emphasis on
the claims of dependency said to have been asserted by the father or parents
of appellees Valdez, Broderson, and Schultz, even though the parent or
parents, according to affidavits, gave "no support" or refused to give
"any aid," to use the Court's words, ante, p. 3.

9 —

printed
1st DRAFT

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

SUPREME COURT OF THE UNITED STATES

From: Blackmun, J.

No. 72-848

Circulated:

Recirculated: 6/21/73

United States Department of Agriculture et al.,
Appellants,
v.
Lula Mae Murry et al.

On Appeal from the United States District Court for the District of Columbia.

[June —, 1973]

MR. JUSTICE BLACKMUN, dissenting.

Section 5 (b) of the Food Stamp Act, which the Court today holds unconstitutional, is not happily drafted and surely is not the kind of statute that attracts sympathetic review. Its purposes, however, are conceded to be laudatory. And, indeed, they are, for the statute seeks to prevent widespread abuse of the federal food stamp program by nonindigents and college students, with consequent denial of the full benefit of the program to those seriously in need of assistance.

The Court, however, invalidates § 5 (b) for, apparently, two reasons. The first is that tax dependency in one calendar year is tied to the subject's lack of need in the following year, and this, it is said, has no rational connection. The second, although it may not be clearly articulated, is that all that is needed to disqualify a household is the presence in it of a person over 18 who is claimed as a dependent for federal income tax purposes by someone outside the household. That this is a reason is quite apparent from the Court's special emphasis on the claims of dependency said to have been asserted by the father or parents of appellants Valdez, Broderson, and Schultz, even though the parent or parents, according to affidavits, gave "no support" or refused to give "any aid," to use the Court's words, *ante*, p. 3.

E

May 14, 1973

No. 72-848 United States Department of Agriculture
v. Murry

Dear Harry:

The idea you expressed at the conference to vacate and remand appealed to me, although I have not studied it carefully.

If you plan to write, I will certainly defer a decision until I see your opinion. If your theory "writes" I will be inclined to join you.

Sincerely,

Mr. Justice Blackmun

lfp/gg

June 9, 1973

No. 72-848 United States v. Murry

Dear Potter:

This refers to our talk Thursday afternoon about the above case.

I have now pretty well decided to join Bill Brennan's opinion in Moreno, but I cannot join the present Court opinion by Bill Douglas in Murry - for the reasons we discussed. Since we talked, I have again reviewed the briefs and the unhelpful opinion below, and unless something further is circulated, I am inclined presently either (i) to join Bill Rehnquist, or (ii) to dissent (if Bill Douglas' opinion obtains a Court) on the ground that the most doubtful provision of the statute has not been construed authoritatively. See the SG's Reply Brief, pp. 1-5.

The most troublesome point in the case for me is the present administrative construction of the new provision that the validity of the claimed tax deduction is immaterial. The court below - in its conclusory opinion - appears to rely heavily on the view that the "legitimacy of the claimed dependency" is not taken into account in applying the statute. Thus, a fraudulent assertion of dependency could deprive an otherwise eligible household of food stamps. While I rather agree with the government that it might be rational for the Congress to assume that fraud will rarely be practiced, the denial of food stamp benefits where there is a fraudulent deduction is certainly the most arguable ground for irrationality.

I do not think this construction is necessary under the statutory language and, indeed, I suppose this Court could construe the statute otherwise. But perhaps a more cautious approach would be to remand the case for consideration by the court below of this question of statutory construction. A secondary point, argued by the SG, is that the statute

is construed to exclude invalid dependency claims there is considerable doubt as to whether any of the appellees has standing.

I have about concluded that the other arguments against rationality of the statute are outweighed by the obvious legitimacy of the government's interest in preventing households from being included where a member is receiving substantial support from an outside taxpayer who is deriving the benefit of a tax deduction. The point as to the carryover to the following year is not persuasive, as otherwise the statute simply could not be administered. One's tax return need not be filed until April 15 for the preceding year and only then would it be known whether a deduction had been claimed.

I would welcome your further views in light of the foregoing. If you feel disposed to write a brief opinion - it need be only a few pages at most - remanding the case, I would be happy to join you. Or, if you share this view, and want me to undertake it, I will draft a short opinion.

Sincerely,

Mr. Justice Stewart

lfp/ss

NO. 72-848

UNITED STATES DEPARTMENT OF AGRICULTURE, et al.,
Appellants,

v.

LULA MAE MURRY et al.

On Appeal from the United States District Court for the
District of Columbia

MR. JUSTICE REHNQUIST, dissenting.

Appellees challenge on constitutional grounds a section of the most recent congressional revision of the Food Stamp Act, 7 U.S.C. § 2011 et seq., whereby households containing persons eighteen years or older who have been claimed as "dependents" for income tax purposes are made ineligible to receive food stamps. The Court's opinion sustains this challenge. Referring to what it conceives to be the legislative aim in enacting such a limitation, "[a] concern about abuses of the program by 'college students; children of wealthy parents.'", the opinion concludes that "the Act goes far beyond that goal and its operation is inflexible" ante, page 5.

Notions that in dispensing public funds to the needy Congress may not impose limitations which "go beyond the

1st DRAFT

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

SUPREME COURT OF THE UNITED STATES

From: Rehnquist, J.

No. 72-848

Circulated: 6/8/73

Recirculated: _____

United States Department of Agriculture et al.,
Appellants,
v.
Lula Mae Murry et al.

On Appeal from the
United States District
Court for the District
of Columbia.

[June —, 1973]

MR. JUSTICE REHNQUIST, dissenting.

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Notions that in dispensing public funds to the needy Congress may not impose limitations which "go beyond the goal" of Congress, or may not be "inflexible," have not heretofore been thought to be embodied in the Constitution. In *Dandridge v. Williams*, 397 U. S. 471 (1970), applying the Equal Protection Clause of the Fourteenth Amendment to state action, the Court held quite the opposite:

"In the area of economics and social welfare, a State does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some 'rea-

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 14, 1973

Re: No. 72-848 - USDA v. Murry

Dear Lewis:

I enclose a slightly revised version of the proposed insert for my dissenting opinion in this case which you sent over earlier today. I worked with my law clerk, Jim Strain, on such revisions as I made, and he then checked it out with Tom Reavley to see if the changes were objectionable to him. Having found they were not, I have dispatched a revised dissent, including the enclosed, to the printer because of the delay down there, but I will not circulate until I know that you personally approve the enclosed.

Sincerely,

Bill

Mr. Justice Powell

I returned this to Bill
with a couple of suggestions.

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

B
CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 18, 1973

Re: No. 72-848 - USDA v. Murry

Dear Bill:

I am revising my dissent in this case to respond to your revised Court opinion; I will hope to circulate early on Friday, after I return.

Sincerely,

WW

Mr. Justice Douglas

Copies to the Conference

No. 72-848

United States Department of Agriculture
et al., Appellants

v.

Lula Mae Murry et al.

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

From: Rehnquist, J.

Circulated:

Recirculated: 6/22/73

MR. JUSTICE REHNQUIST, dissenting.

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Changes throughout

Printed
2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-848

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

From: Rehnquist, J.

United States Department of
Agriculture et al.,
Appellants,
v.
Lula Mae Murry et al.

Circulated:
On Appeal from the
United States *Re-distributed:* 6/22/73
Court for the District
of Columbia.

[June 25, 1973]

MR. JUSTICE REHNQUIST, dissenting.

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"while apparently recognizing the validity of at least some of these State concerns, nonetheless held