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United States v. Maze

414 U.S. 395 (1974)

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

November 17, 1973

Re: 72-1168 - U. S. v. Maze

MEMORANDUM TO THE CONFERENCE:

I deferred my vote on this case at Conference.

I am not yet persuaded that we should affirm but conceivably I might join an opinion if Pereira can be distinguished.

In these circumstances I suggest Bill Douglas assign the case.

Regards,

W.B.B.

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

CHAMBERS OF
THE CHIEF JUSTICE

November 20, 1973

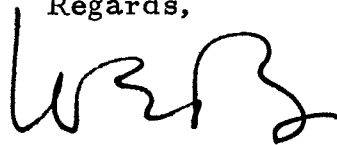
MEMORANDUM TO

Mr. Justice Blackmun
Mr. Justice White

Re: 72-1168 - U. S. v. Maze

Unless the situation changes, I will put my
hand to a brief dissent. Bill Rehnquist may find that
Pereira cannot be distinguished. Hope springs
eternal!

Regards,

A handwritten signature in dark ink, appearing to be "W. E. Burger", written in a cursive style.

WDD to WHR
72-1168

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zation of the Hoover Institution Archives.

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Supreme Court of the United States

Memorandum

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WU

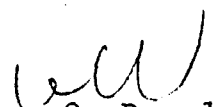
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

November 19, 1973

Dear Chief:

I have your note suggesting that I assign 72-1168, United States v. Maze. I have spoken to Bill Rehnquist and he will be happy to take on the assignment.


William O. Douglas

The Chief Justice

cc: Conference

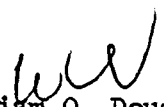
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

November 30, 1973

Dear Bill:

Please join me in your opinion
in 72-1168, U.S. v. Maze.


William O. Douglas

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

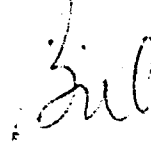
December 4, 1973

RE: No. 72-1168 United States v. Ware

Dear Bill:

I voted "D.I.G." at conference but
your footnote 1 is persuasive that that's
not the proper resolution. Like Harry,
I think I'll await the dissent.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 5, 1973

RE: No. 72-1168 United States v. Maze

Dear Byron:

Please join me in your dissenting
opinion in the above.

Sincerely,

Brennan

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

December 3, 1973

Re: No. 72-1168, U.S. v. Maze

Dear Bill,

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

Sincerely yours,

PS.


Mr. Justice Rehnquist

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, J.

No. 72-1168

Circulated: 12-11-73

Recirculated: _____

United States, Petitioner, } On Writ of Certiorari to
v. } the United States Court of
Thomas E. Maze. } Appeals for the Sixth Cir-
cuit.

[December —, 1973]

MR. JUSTICE WHITE, dissenting.

Until today the acts charged in the indictment in this case—knowingly causing four separate sales invoices to be mailed by merchants to the bank that had issued the stolen BankAmericard in furtherance of a scheme to defraud the bank by using the credit card without authorization and by falsely securing credit—would have been a criminal offense punishable as mail fraud under 18 U. S. C. § 1341.¹ But no more. By misreading this Court's prior decisions and giving an unambiguous federal criminal statute an unrealistic reading, the majority places beyond the reach of the statute a fraudulent scheme that by law is not consummated until after the

¹ See, e. g., *United States v. Kelly*, 467 F. 2d 262 (CA7 1972), cert. denied, — U. S. —; *United States v. Madison*, 458 F. 2d 974 (CA2 1971), cert. denied, 409 U. S. 859; *United States v. Chason*, 451 F. 2d 301 (CA2 1971), cert. denied, 405 U. S. 1016; *United States v. Kellerman*, 431 F. 2d 319 (CA2 1970), cert. denied, 400 U. S. 957; *United States v. Thomas*, 429 F. 2d 407 (CA5 1970); *United States v. Kelem*, 416 F. 2d 346 (CA9 1969), cert. denied, 397 U. S. 952; *Adams v. United States*, 312 F. 2d 137 (CA5 1963).

The majority recognizes that prior to this decision at least five courts of appeals had taken a view contrary to that reached by the court below. *Ante.* at — n. 2. The Court of Appeals in this case relied upon *United States v. Lynn*, 461 F. 2d 759 (CA10 1972), but the indictment in that case did not allege that the plan defrauded the authorized card holder or the credit card issuer.

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. 72-1168

Recirculated: 12 - 6 - _____

United States, Petitioner, } On Writ of Certiorari to
v. } the United States Court of
Thomas E. Maze. } Appeals for the Sixth Cir-
cuit.

[December —, 1973]

MR. JUSTICE WHITE, with whom MR. JUSTICE BRENNAN and MR. JUSTICE BLACKMUN concur, dissenting.

Until today the acts charged in the indictment in this case—knowingly causing four separate sales invoices to be mailed by merchants to the bank that had issued the stolen BankAmericard in furtherance of a scheme to defraud the bank by using the credit card without authorization and by falsely securing credit—would have been a criminal offense punishable as mail fraud under 18 U. S. C. § 1341.¹ But no more. By misreading this Court's prior decisions and giving an unambiguous federal criminal statute an unrealistic reading, the majority places beyond the reach of the statute a fraudulent

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The majority recognizes that prior to this decision at least five courts of appeals had taken a view contrary to that reached by the court below. *Ante*, at — n. 2. The Court of Appeals in this case relied upon *United States v. Lynn*, 461 F. 2d 759 (CA10 1972), but the indictment in that case did not allege that the plan defrauded the authorized card holder or the credit card issuer.

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 2, 1974

1168
Re: No. 72-1108 - United States v. Maze

Dear Chief:

Please join me in your dissent in this
case.

Sincerely,



The Chief Justice

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 4, 1973

Re: No. 72-1168 -- U.S. v. Maze

Dear Bill:

Please join me in your opinion.

Sincerely,



T. M.

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 3, 1973

Re: No. 72-1168 - U.S. v. Maze

Dear Bill:

I shall await the dissent.

Sincerely,

H.A.B.

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 4, 1973

Re: No. 72-1168 - U.S. v. Maze

Dear Byron:

Please join me in your dissent.

Sincerely,

H.A.B.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

November 30, 1973

No. 72-1168 United States v. Maze

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Rehnquist

lfp/ss

cc: The Conference

To: The Chief Justice
Mr. Justice Douglas
✓ Mr. Justice Brandeis
Mr. Justice White
Mr. Justice Brennan
Mr. Justice Marshall
Mr. Justice Black
Mr. Justice

1st DRAFT

From: Rehnquist.

SUPREME COURT OF THE UNITED STATES

No. 72-1168

Recirculated.

United States, Petitioner. } On Writ of Certiorari to
v. } the United States Court of
Thomas E. Maze. } Appeals for the Sixth Cir-
cuit.

[December —, 1973]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

In February 1971 respondent Thomas E. Maze moved to Louisville, Kentucky, and there shared an apartment with Charles L. Meredith. In the spring of that year respondent's fancy lightly turned to thoughts of the sunny Southland, and he thereupon took Meredith's BankAmericard and his 1968 automobile and headed for Southern California. By presenting the BankAmericard and signing Meredith's name, respondent obtained food and lodging at motels located in California, Florida, and Louisiana. Each of these establishments transmitted to the Citizens Fidelity Bank and Trust Company in Louisville, which had issued the BankAmericard to Meredith, the invoices representing goods and services furnished to respondent. Meredith, meanwhile, on the day after respondent's departure from Louisville, notified the Louisville bank that his credit card had been stolen.

Upon respondent's return to Louisville he was indicted on four counts of violation of the federal mail fraud statute, 18 U. S. C. § 1341, and one count of violation of the Dyer Act, 18 U. S. C. § 2312. The mail-fraud counts of the indictment charged that respondent had

pp. 2, 3, 5, 7, 10

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1168

12-5-73

United States, Petitioner,	} On Writ of Certiorari to the United States Court of Appeals for the Sixth Cir- cuit.
Thomas E. Maze.	

[December —, 1973]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

In February 1971 respondent Thomas E. Maze moved to Louisville, Kentucky, and there shared an apartment with Charles L. Meredith. In the spring of that year respondent's fancy lightly turned to thoughts of the sunny Southland, and he thereupon took Meredith's BankAmericard and his 1968 automobile and headed for Southern California. By presenting the BankAmericard and signing Meredith's name, respondent obtained food and lodging at motels located in California, Florida, and Louisiana. Each of these establishments transmitted to the Citizens Fidelity Bank and Trust Company in Louisville, which had issued the BankAmericard to Meredith, the invoices representing goods and services furnished to respondent. Meredith, meanwhile, on the day after respondent's departure from Louisville, notified the Louisville bank that his credit card had been stolen.

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8.10
3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1168

United States, Petitioner, } On Writ of Certiorari to
Thomas E. Maze. } the United States Court of
Appeals for the Sixth Cir-
cuit.

[December —, 1973]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

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