

The Burger Court Opinion Writing Database

Super Tire Engineering Co. v. McCorkle

416 U.S. 115 (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

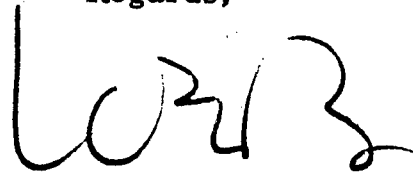
March 5, 1974

Re: No. 72-1554 - Super Tire Engineering Company v.
Lloyd W. McCorkle, et al

Dear Potter:

Please join me.

Regards,



Mr. Justice Stewart

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

CHAMBERS OF
THE CHIEF JUSTICE

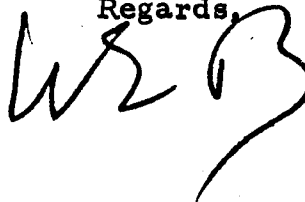
March 19, 1974

Re: 72-1554 - Super Tire Eng. Co. v. McCorkle

MEMORANDUM TO THE CONFERENCE:

As agreed at Conference, the above case has been assigned by Mr. Justice Douglas to Mr. Justice Blackmun.

Regards,



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

CHAMBERS OF
THE CHIEF JUSTICE

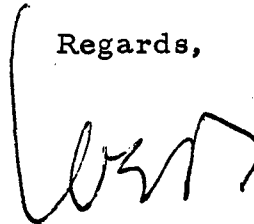
April 8, 1974

Re: 72-1554 - Super Tire Engineering Co. v. McCorkle

Dear Potter:

Please join me in your dissent.

Regards,



Mr. Justice Stewart

Copies to the Conference

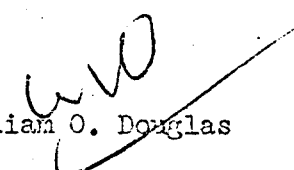
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

March 13, 1974

Dear Harry:

Please join me in your dissent
in 72-1554, Super Tire v. McCorkle.


William O. Douglas

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

March 26, 1974

Dear Harry:

Please join me in your opinion for the
Court in 72-1554, Super Tire Engineering
Co. v. McCordle.

W.O.
William O. Douglas

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

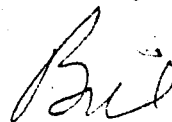
March 14, 1974

RE: No. 72-1554 Super Tire Engineering Co.
v. McCorkle, et al.

Dear Harry:

Please join me in your dissenting
opinion in the above.

Sincerely,



Mr. Justice Blackmun

cc: The Conference

FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 29, 1974

RE: No. 72-1554 - Super Tire Co. v. McCorkle

Dear Harry:

I agree.

Sincerely,

Bill

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 4, 1974

RE: No. 72-1554 Super Tire Engineering
Co. v. McCorkle, et al.

Dear Harry:

I agree with your second draft in
the above.

Sincerely,

Mr. Justice Blackmun

cc: The Conference

Mr. Chief Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1554

February 15, 1974
Circulated: FEB 15 1974

Recirculated:

Super Tire Engineering
Company et al.,
Petitioners,
v.
Lloyd W. McCorkle et al. } On Writ of Certiorari to the
United States Court of Ap-
peals for the Third Circuit.

[February —, 1974]

MR. JUSTICE STEWART delivered the opinion of the Court.

On May 14, 1971, the production and maintenance employees of the petitioners, Super Tire Engineering Company and Supercap Corporation, commenced an economic strike in support of their demands for a new collective-bargaining agreement.¹ About four weeks later, on June 10, 1971, the petitioners filed a complaint in the United States District Court for the District of New Jersey, alleging that a number of striking employees were receiving public assistance under state welfare programs.² Their complaint sought declaratory and injunc-

¹ Super Tire Engineering Company and Supercap Corporation are New Jersey corporations with their principal places of business in Camden; they are engaged in the general business of manufacturing, selling, and servicing truck tires. A three-year contract between the petitioners and Teamsters Local Union No. 676, the certified collective-bargaining representative for the corporations' production and maintenance employees, had expired on May 14, 1971.

² Specifically, the petitioners claimed that the striking workers were receiving benefits under two New Jersey welfare programs: New Jersey General Assistance, N. J. Stat. Ann. 44:8-107 *et seq.*, a state program, and Aid for Dependent Children (AFDC), N. J. Stat. Ann. 44:10-1 *et seq.*, a joint state-federal program created

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1554

Circulated: 1974

Recirculated:

Super Tire Engineering
 Company et al.,
 Petitioners.
 v.
 Lloyd W. McCorkle et al.

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

[April --, 1974]

MR. JUSTICE STEWART, dissenting

The Court today reverses the Court of Appeals and holds that this case is not moot, despite the fact that the underlying labor dispute that gave rise to the petitioners' claims ended even before the parties made their initial appearance in the District Court. I think this holding ignores the limitations placed upon the federal judiciary by Article III of the Constitution and disregards the clear teachings of prior cases. Accordingly, I dissent.

This Court has repeatedly recognized that the inability of the federal judiciary "to review moot cases derives from the requirement of Article III of the Constitution under which the exercise of judicial power depends on the existence of a case or controversy." *Liner v. Jafco, Inc.*, 375 U. S. 301, 306, n. 3. See also *North Carolina v. Rice*, 404 U. S. 244, 246; *Powell v. McCormack*, 395 U. S. 486, 496 n. 7; *Sibron v. New York*, 392 U. S. 40, 50 n. 8. Since Article III courts are precluded from issuing advisory opinions, *Hayburn's Case*, 2 Dall. 409; *Muskrat v. United States*, 219 U. S. 346, it necessarily follows that they are impotent "to decide questions that cannot affect the rights of litigants in the case before

ATES - 6000

Recirculated: 10/1 **9**

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

[April —, 1974]

MR. JUSTICE STEWART, with whom THE CHIEF JUSTICE, MR. JUSTICE POWELL, and MR. JUSTICE REHNQUIST join, dissenting.

The Court today reverses the Court of Appeals and holds that this case is not moot, despite the fact that the underlying labor dispute that gave rise to the petitioners' claims ended even before the parties made their initial appearance in the District Court. I think this holding ignores the limitations placed upon the federal judiciary by Article III of the Constitution and disregards the clear teachings of prior cases. Accordingly, I dissent.

This Court has repeatedly recognized that the inability of the federal judiciary "to review moot cases derives from the requirement of Article III of the Constitution under which the exercise of judicial power depends on the existence of a case or controversy." *Liner v. Jafco, Inc.*, 375 U. S. 301, 306, n. 3. See also *North Carolina v. Rice*, 404 U. S. 244, 246; *Powell v. McCormack*, 395 U. S. 486, 496 n. 7; *Sibron v. New York*, 392 U. S. 40, 50 n. 8. Since Article III courts are precluded from issuing advisory opinions, *Hayburn's Case*, 2 Dall. 409; *Muskrat v. United States*, 219 U. S. 346, it necessarily follows that they are impotent "to decide questions that cannot affect the rights of litigants in the case before

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 14, 1974

Re: No. 72-1554 - Super Tire Engineering Co.
v. McCorkle

Dear Harry:

Your dissenting opinion expresses my views
in this case. Please join me.

Sincerely,



Mr. Justice Blackmun

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 20, 1974

Re: No. 72-1554 -- Super Tire Engineering Company v.
McCorkle et al.

Dear Potter:

I shall wait for the dissent before making up
my mind.

Sincerely,

T.M.
T.M.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 13, 1974

Re: No. 72-1554 -- Super Tire Engineering Company v.
McCorkle

Dear Harry:

While I voted the other way, I am persuaded
by your opinion.

Please join me in your dissent.

Sincerely,



T. M.

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

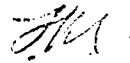
April 1, 1974

Re: No. 72-1554 -- Super Tire Engineering Co. v.
McCorkle

Dear Harry:

Please join me.

Sincerely,



T.M.

Mr. Justice Blackmun

cc: The Conference

FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 19, 1974

MEMORANDUM TO THE CONFERENCE

Re: No. 72-1554 - Super Tire v. McCorkle

In due course I shall attempt a dissent in
this case.

HAB.

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SUPREMACY

Circulated: 3/13/11 -
Recirculated: _____

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 28, 1974

MEMORANDUM TO THE CONFERENCE

Re: No. 72-1554 - Super Tire Engineering Co.
v. McCorkle

The fourth item on Mr. Ginty's memorandum of today relating to Chambers Actions of the Chief Justice concerns the motion of the petitioners for leave to file a supplemental brief. Mr. Ginty recommends that that motion be granted.

The "recast" proposed opinion is being circulated this afternoon. It does not reach the merits. This is on the assumption that, despite the possible existence of power here to reach the merits, this aspect of the case should be explored in the first instance by the Court of Appeals. I assume, but do not know, that the conference will favor this approach rather than pass on the merits at this time.

The petitioner's supplemental brief in part concerns the merits. There is a response, filed today, by the New Jersey respondents. This response, of course, is not mentioned in Mr. Ginty's memorandum.

I have no objection to the granting of the motion for leave to file the supplemental brief. It has no effect on the opinion as recast. I circulate this note, however, so that all may be aware of the thrust of these additional documents that are presented to us.

H.A.B.

Mr. Justice Brandeis
Mr. Justice Powell
Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1554

Super Tire Engineering
Company et al.,
Petitioners,
v.
Lloyd W. McCorkle et al.

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

[April —, 1974]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

In New Jersey, workers engaged in an economic strike are eligible for public assistance through state welfare programs. Employers whose plants were struck instituted this suit for injunctive and declaratory relief against such eligibility. Before the case was tried the labor dispute was settled and the strike came to an end. The question presented is whether a "case" or "controversy" still exists, within the meaning of Art. III, § 2, of the Constitution, and of the Declaratory Judgment Act, 28 U. S. C. §§ 2201-2202.

I

A collective-bargaining agreement between Super Tire Engineering Company and Supercap Corporation, affiliated New Jersey corporations,¹ and Teamsters Local Union No. 676, the certified collective-bargaining representative for the two corporations' production and main-

¹ Super Tire Engineering Company is engaged in the business of truck tire sales and service and the manufacture and sale of industrial polyurethane tires and wheels. Supercap Corporation is engaged in the business of truck tire recapping and repairing.

PP. 6 & 7

Justice Marshall
Justice Powell
Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Revised: _____
Recirculated: 4/3/74

No. 72-1554

Super Tire Engineering Company et al., Petitioners, v. Lloyd W. McCorkle et al.	} On Writ of Certiorari to the United States Court of Ap- peals for the Third Circuit.
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[April —, 1974]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

In New Jersey, workers engaged in an economic strike are eligible for public assistance through state welfare programs. Employers whose plants were struck instituted this suit for injunctive and declaratory relief against such eligibility. Before the case was tried, the labor dispute was settled and the strike came to an end. The question presented is whether a "case" or "controversy" still exists, within the meaning of Art. III, § 2, of the Constitution, and of the Declaratory Judgment Act, 28 U. S. C. §§ 2201-2202.

I

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¹ Super Tire Engineering Company is engaged in the business of truck tire sales and service and the manufacture and sale of industrial polyurethane tires and wheels. Supercap Corporation is engaged in the business of truck tire recapping and repairing.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 18, 1974

No. 72-1554 Super Tire v. McCorkle

Dear Potter:

Please join me.

Sincerely,

Lewis

Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

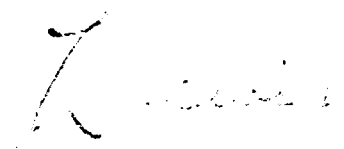
April 4, 1974

No. 72-1554 Super Tire v. McCorkle

Dear Potter:

Please join me in your dissent.

Sincerely,



Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 25, 1974

Re: No. 72-1554 - Super Tire v. McCorkle

Dear Potter:

Please join me.

Sincerely,



Mr. Justice Stewart

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

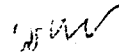
April 4, 1974

Re: No. 72-1554 - Super Tire v. McCorkle

Dear Potter:

Please join me in your dissent in this case.

Sincerely,



Mr. Justice Stewart

Copies to the Conference

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