

The Burger Court Opinion Writing Database

Granny Goose Foods, Inc. v. Teamsters

415 U.S. 423 (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

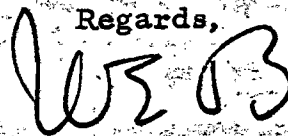
February 14, 1974

Re: 72-1566 -Granny Goose Foods v. Brotherhood
of Teamsters & Auto Truck Drivers, etc.

Dear Thurgood:

I am in substantial agreement with the proposed opinion you circulated on February 12, 1974, on both the question of the duration, under 28 U.S.C. § 1450, of removed state temporary restraining orders, and the conversion of the TRO at issue here into a preliminary injunction of unlimited duration by virtue of the federal court's denial of the motion to dissolve the TRO. As I understand the durational rule you propose on page 15 of the draft, the ten-day limitation of Federal Rule 65 (b) would control here since it would call for expiration of the TRO on May 30, 1970, which is earlier than the earliest date of expiration, June 2, 1970, possible under state law. I therefore wonder if there is any necessity to determine, as you do in footnote 7, which, if any, time limitation applies under state law, since the federal limitation would control in any event.

Regards,



Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

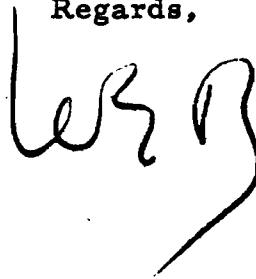
February 21, 1974

Re: No. 72-1566 - Granny Goose Foods v. Brotherhood of
Teamsters & Auto Truck Drivers, etc.

Dear Thurgood:

I have your note and I think I will now await
Justice Rehnquist's circulation before taking final action.

Regards,



Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

March 1, 1974

Re: 72-1566 - Granny Goose Foods v. Bro. of
Teamsters & Auto Truck Drivers, Local 70

Dear Bill:

Please join me in your concurring
opinion.

Regards,

WEB

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

February 12, 1974

Dear Thurgood:

Please join me in your opinion
for the Court in 72-1566, Granny Goose v.
Brotherhood.


William O. Douglas

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. February 13, 1974

RE: No. 72-1566 Granny Goose Foods
v. Brotherhood of Teamsters, etc.

Dear Thurgood:

I agree.

Sincerely,

1510

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 19, 1974

Re: No. 72-1566, Granny Goose Foods v.
Teamsters

Dear Thurgood,

I shall await Bill Rehnquist's circulation before
coming to rest in this case.

Sincerely yours,

P.S.
/

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 27, 1974

No. 72-1566, Granny Goose Foods
v. Teamsters

Dear Bill,

I should appreciate your adding my
name to your opinion in this case, concurring
in the judgment.

Sincerely yours,

P.S.

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE


February 13, 1974

Re: No. 72-1566 - Granny Goose Foods, Inc. v.
Brotherhood of Teamsters

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

Copies to Conference

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1566

From: Marshall, J.

Circulated: FEB 12 1974

Recirculated:

Granny Goose Foods, Inc.,
et al., Petitioners,
v.
Brotherhood of Teamsters
& Auto Truck Drivers,
Local No. 70 of Alameda County, Etc.

On Writ of Certiorari to the
United States Court of
Appeals for the Ninth
Circuit.

[February —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

This case concerns the interpretation of 28 U. S. C. § 1450,¹ which provides in pertinent part: "Whenever any action is removed from a State court to a district court of the United States . . . [a]ll injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the district court." The District

¹ 28 U. S. C. § 1450:

"Whenever any action is removed from a State court to a district court of the United States, any attachment or sequestration of the goods or estate of the defendant in such action in the State court shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the State court.

"All bonds, undertakings, or security given by either party in such action prior to its removal shall remain valid and effectual notwithstanding such removal.

"All injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the district court."

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 20, 1974

Re: 72-1566 -- Granny Goose Foods v. Brotherhood
of Teamsters & Auto Truck Drivers, etc.

Dear Chief:

In reply to your memorandum of February 14,
as of now I would rather not take out footnote 7.

Sincerely,

T.M.
T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 14, 1974

Re: No. 72-1566 - Granny Goose Foods v.
Brotherhood of Teamsters

Dear Thurgood:

I have one very minor suggestion which I pass on to you for what it may be worth. I realize that you are in dissent in No. 72-403, Sampson v. Murray, which, I assume, will come down very soon. Because that case and Granny Goose both bear upon the "conversion" of a TRO into a preliminary injunction, but reach opposite conclusions, do you think that it is worth inserting "Cf. Sampson v. Murray, ante, p. _____, _____," somewhere in Part III of your Granny Goose opinion? This might be inserted at the end of the paragraph ending on page 18, or perhaps there is some better spot.

I still feel close to my practice days and I have in mind that lawyers at times get confused when they see cases coming out more or less simultaneously with opposite results. At least the majority in each of these cases feels the conclusions are correct and that the cases are distinguishable.

Sincerely,



Mr. Justice Marshall

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

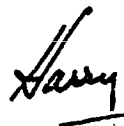
February 14, 1974

Re: No. 72-1566 - Granny Goose Foods v.
Brotherhood of Teamsters

Dear Thurgood:

I feel that the opinion you have proposed for
this case is a very good one, and I am glad to join it.

Sincerely,



Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 19, 1974

No. 72-1566 Granny Goose Foods v. Teamsters

Dear Thurgood:

In accordance with my vote at the Conference, I will await
Bill Rehnquist's circulation before casting a final vote.

Sincerely,



Mr. Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 26, 1974

No. 72-1566 Granny Goose Foods v. Brotherhood
of Teamsters

Dear Bill:

Although I dissented at the Conference, I am now persuaded to join in the judgment. As your reading of 28 U. S. C. § 1450 is more in accord with my own thinking, I will join your concurrence.

Sincerely,

Lewis

Mr. Justice Rehnquist

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 14, 1974

Re: No. 72-1566 - Granny Goose Foods v. Brotherhood
of Teamsters, et al.

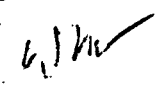
Dear Thurgood:

I agree with the result that you reach in this case, but probably won't be able to join your opinion. While the rule that your opinion comes up with -- that the temporary restraining order issued by the state court expires no later than ten days after removal to federal court, regardless of what its duration would have been under state law, is probably a desirable one, I don't think it is a very accurate interpretation of the language of 28 USC § 1450:

"All injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the District Court."

Since there was no dissolution by the District Court here, the state court order in my opinion would have lasted for the time allowed under state law. But since as your footnote 7 points out the state court restraining order would have expired under state law long before the occurrence of the acts which were claimed to be violative of its terms, I would affirm on that basis. I will probably write a short concurrence to that effect.

Sincerely,



Mr. Justice Marshall

Copies to the Conference

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1566

From: Rehnquist, J.

Circulated: 2/26/74

Recirculated: _____

Granny Goose Foods, Inc.,
et al., Petitioners,
v.
Brotherhood of Teamsters
& Auto Truck Drivers,
Local No. 70 of Alameda County, Etc.

On Writ of Certiorari to the
United States Court of
Appeals for the Ninth
Circuit.

[February —, 1974]

MR. JUSTICE REHNQUIST, concurring in the judgment.

I agree with the Court that the judgment of the Court of Appeals for the Ninth Circuit in this case should be affirmed, since there was no injunctive order in effect at the time that respondents' allegedly contemptuous conduct concurred. But I do not join that portion of the Court's opinion which lays down a "rule" for all cases involving 28 U. S. C. § 1450,¹ the statute which all parties agree is controlling in the case before us. In my view, the announcement of this "rule" is neither necessary to the decision of this case nor consistent with the provisions of the statute itself.

The Court persuasively demonstrates in its opinion that the temporary restraining order issued by the California Superior Court had expired by its own terms long before the alleged contempt occurred. And I see nothing in the language or legislative history of 28 U. S. C. § 1450,

¹ The relevant provision of 28 U. S. C. § 1450 reads:

"All injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the District Court."