

The Burger Court Opinion Writing Database

Gateway Coal Co. v. Mine Workers
414 U.S. 368 (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

December 20, 1973

Re: No. 72-782 - Gateway Coal Co. v. United Mine Workers

Dear Lewis:

Please join me.

Regards,

W³43

Mr. Justice Powell

Copies to the Conference

To : The Other Justice
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice Marshall
 Mr. Justice Black
 Mr. Justice White
 Mr. Justice Powell
 Mr. Justice Marshall
 Mr. Justice Black
 Mr. Justice Marshall

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-782

12-19

Gateway Coal Company,
 Petitioner.
 v.
 United Mine Workers of
 America et al

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

[January --, 1973]

MR. JUSTICE DOUGLAS, dissenting.

The dispute in this labor case does not involve hourly wages, pension benefits, or the like. It involves the life and death of the workers in the most dangerous occupation in America.¹ The history of the coal miner is a history of fatal catastrophes, which have prompted special protective legislation.² Nor was the mine involved here an exception. It is classified by the United States Bureau of Mines as "especially hazardous," triggering special inspection procedures to insure the safety of the men who work it. Federal Coal Mine Health and Safety Act, 30 U. S. C. § 813 (i). Congress has received testimony about safety problems at this mine in which the workers, a year before this dispute, complained of the supervisors' negligence in safety matters, particularly their practice of "not testing for

¹ Bureau of Labor Statistics, Injury Rates by Industry, 1970, at 3 and 6 (Report No. 406, 1972).

² House Committee on Education and Labor, Legislative History, Federal Coal Mine Health and Safety Act (1970), at 4-6 (S. Rep. No. 91-411 on S. 2917, 91st Cong., 1st Sess.), *id.*, at 559-560 (H. R. Rep. No. 91-563 on H. R. 13950, 91st Cong., 1st Sess.).

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. December 7, 1973

RE: No. 72-782 Gateway Coal Company v.
United Mine Workers of America, et al.

Dear Lewis:

I saw this the other way, not on
Hastie's grounds, but because I thought
this dispute fell outside the general
arbitration clause and within the
special safety clause. You persuade
me that this is not the case and I
therefore join you.

Sincerely,

Brennan

Mr. Justice Powell
cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

December 7, 1973

Re: No. 72-782, Gateway Coal Co. v. United Mine
Workers of America

Dear Lewis,

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

Sincerely,

P.S.

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

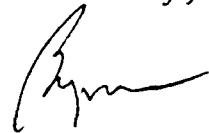
December 8, 1973

Re: No. 72-782 - Gateway Coal Co. v. United Mine
Workers of America

Dear Lewis:

Please join me in your excellent opinion
in this case.

Sincerely,



Mr. Justice Powell

Copies to Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

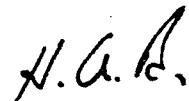
December 10, 1973

Re: No. 72-782 - Gateway Coal Co. v. UMW

Dear Lewis:

Please join me.

Sincerely,



Mr. Justice Powell

cc: 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 Rehnquist

1st DRAFT

From: Powell, J.

SUPREME COURT OF THE UNITED STATES

Recirculated: DEC 6 1973

No. 72-782

Recirculated: _____

Gateway Coal Company,

Petitioner,

v.

United Mine Workers of
America et al.

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

[December —, 1973]

MR. JUSTICE POWELL delivered the opinion of the
Court.

This case involves a labor dispute over safety conditions between Gateway Coal Company and United Mine Workers of America. The questions presented are of considerable importance to the development of federal policy regarding arbitration of safety disputes and the duty not to strike.

I

Gateway Coal Company (the "company") owns and operates a large underground coal mine known as the Gateway Mine, in Greene County, Pennsylvania. Some 550 production and maintenance workers, employed by the company, are represented for purposes of collective bargaining by United Mine Workers of America (the "union"), including its administrative division, District No. 4, and Local No. 6330.

On the morning of April 15, 1971, shortly before the daylight shift at the mine reported for work, a shuttle car operator on the departing midnight shift noticed an unusually low air flow in his section of the mine. His foreman made an anemometer check and discovered an

Changes 1, 2, 12, 14

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

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-782

Argued: Powell, J.

Circulated: _____

Recirculated: DEC 27 1973

Gateway Coal Company,

Petitioner,

v.

United Mine Workers of
America et al.

On Writ of Certiorari to the
United States Court of Ap-
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change 10/18/19

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

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 72-782

From: Powell, J.

Circulated:

JAN 4 1974

Recirculated:

Gateway Coal Company, Petitioner,
v. United Mine Workers of America et al. } On Writ of Certiorari to the
United States Court of Appeals for the Third Circuit.

[January 8, 1974]

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 16, 1974

Jan 18, 1974 Guf
List 3, Sheet 2

Case held for No. 72-782, Gateway Coal Co.
v. United Mine Workers of America, et al

MEMORANDUM TO THE CONFERENCE:

No. 72-930, United States Steel Corp. v.
United Mine Workers of America

Members of respondent-union struck as a result of certain mine safety conditions ensuing from the alleged failure of an assistant foreman to make required checks of working areas for accumulated methane gas. After petitioner-employer brought this suit under § 301 of the LMRA, the district court ordered the dispute submitted to arbitration, and enjoined the strike subject to petitioner agreeing to assign another foreman to work with the assistant foreman in the performance of his duties until the arbitrator issued his award. While the appeal was pending, the arbitrator issued his decision finding that the dispute was arbitrable and that the assistant foreman had acted properly. CA3 later reversed the district court per curiam on the basis of the CA3 decision in Gateway Coal.

The collective bargaining agreement in this case is identical to that in Gateway Coal. It follows, therefore, that the safety dispute was arbitrable. The question of the propriety of the injunctive relief to enforce an implied no-strike obligation is less certain. Although holding that § e of the agreement, relating to the mine safety committee, was not an express exception to the arbitration clause, the Court in Gateway did not have the question whether § e would constitute an express exception to an implied no-strike obligation. Resolution of that issue was made unnecessary by the union's failure to comply with the formal provisions of that section. In the present case, there again appears to be a factual dispute as to compliance with § e. Respondent

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

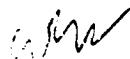
December 10, 1973

Re: No. 72-782 - Gateway Coal v. United Mine Workers

Dear Lewis:

Please join me.

Sincerely,



Mr. Justice Powell

Copies to the Conference