

# 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,

WJ

Mr. Justice Powell

Copies to the Conference

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To : The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Minton  
Mr. Justice Harlan  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Souter

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-782

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

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

[January —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

I

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.<sup>1</sup> The history of the coal miner is a history of fatal catastrophes, which have prompted special protective legislation.<sup>2</sup> 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

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

<sup>2</sup> 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.

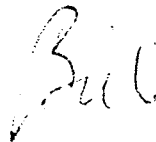
December 7, 1973

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,



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

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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

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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,

*H.A.B.*

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

Deculated: 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 condi-  
tions 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

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- peals for the Third Circuit.
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[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 enforcement of a contractual 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

changes 12/18/19

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

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SUPREME COURT OF THE UNITED STATES

From: Powell, J.

Circulated: \_\_\_\_\_

No. 72-782

Recirculated: \_\_\_\_\_

JAN 4 1974

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

[January 8, 1974]

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 enforcement of a contractual duty not to strike.

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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  
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

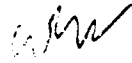
December 10, 1973

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

Dear Lewis:

Please join me.

Sincerely,



Mr. Justice Powell

Copies to the Conference