

# The Burger Court Opinion Writing Database

*Bowman Transportation, Inc. v.  
Arkansas-Best Freight System, Inc.*  
419 U.S. 281 (1974)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

April 25, 1974

RE: Nos. 73-1055, 72-1069, 73-1070, 7301071 & 73-1072  
Bowman Transportation, Inc. v. Arkansas-Best Freight  
System, Inc.

Dear Byron:

I agree.

Sincerely,

*Paul*

Mr. Justice White

cc: The Conference

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OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT

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

CHAMBERS OF  
JUSTICE POTTER STEWART

April 17, 1974

73-1072, U. S. v. Arkansas-Best Freight System

Dear Byron,

Please add my name to your dissenting  
opinion in this case.

Sincerely yours,

P.S.  
✓

Mr. Justice White

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THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF COMMERCE

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

CHAMBERS OF  
JUSTICE POTTER STEWART

April 25, 1974

Nos. 73-1055, 73-1069, 73-1070, 73-1071 &  
73-1072, Bowman Transp. Inc. v.  
Arkansas-Best Freight System, Inc.

Dear Byron,

I agree with your proposed handling  
of these appeals.

Sincerely yours,

P.S.

Mr. Justice White

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U.S. DEPARTMENT OF COMMERCE

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OFFICE OF THE ARCHIVAL RESEARCH

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  
From: White, J.

UNITED STATES AND INTERSTATE COMMERCE  
COMMISSION v. ARKANSAS-BEST FREIGHT  
SYSTEM, INC., ET AL.;  
Annotated: 4-17-74  
Recirculated:

BOWMAN TRANSPORTATION, INC. v. ARKANSAS-  
BEST FREIGHT SYSTEM, INC., ET AL.;  
JOHNSON MOTOR LINES, INC. v. ARKANSAS-  
BEST FREIGHT SYSTEM, INC., ET AL.;  
RED BALL MOTOR FREIGHT, INC. v. ARKANSAS-  
BEST FREIGHT SYSTEM, INC., ET AL.; and  
LORCH-WESTWAY CORPORATION ET AL. V.  
ARKANSAS-BEST FREIGHT SYSTEM,  
INC., ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF ARKANSAS

Nos. 73-1072, 73-1055, 73-1069, 73-1070, and 73-1071.  
Decided April —, 1974

MR. JUSTICE WHITE, dissenting.

In 1964 and 1965, appellant motor carriers applied to the Interstate Commerce Commission to extend their regular routine general commodity operating authorities between points in the Southeast and Southwest. Hearings were held in 1966-1967 at which more than 900 shippers and receivers of freight testified in support of the applications. The hearing examiners denied the applications but the Commission disagreed. After an intensive analysis and comparison of the evidence in support of and in opposition to the applications, it concluded that appellants' applications should be granted.

The Commission found substantial evidence of general dissatisfaction with existing services because of excessive and inconsistent transit time between the two geographic

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 <sup>Mr. Justice White, J.</sup>

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

UNITED STATES AND INTERSTATE COMMERCE

COMMISSION *v.* ARKANSAS-BEST FREIGHT  
SYSTEM, INC., ET AL.;

Circulated: 4-17-74

BOWMAN TRANSPORTATION, INC. *v.* ARKANSAS-  
BEST FREIGHT SYSTEM, INC., ET AL.;

JOHNSON MOTOR LINES, INC. *v.* ARKANSAS-  
BEST FREIGHT SYSTEM, INC., ET AL.;

RED BALL MOTOR FREIGHT, INC. *v.* ARKANSAS-  
BEST FREIGHT SYSTEM, INC., ET AL.; and

LORCH-WESTWAY CORPORATION ET AL. *v.*  
ARKANSAS-BEST FREIGHT SYSTEM,  
INC., ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF ARKANSAS

Nos. 73-1072, 73-1055, 73-1069, 73-1070, and 73-1071.  
Decided April —, 1974

MR. JUSTICE WHITE, with whom MR. JUSTICE STEWART  
and MR. JUSTICE REHNQUIST join, dissenting.

In 1964 and 1965, appellant motor carriers applied to the Interstate Commerce Commission to extend their regular routine general commodity operating authorities between points in the Southeast and Southwest. Hearings were held in 1966-1967 at which more than 900 shippers and receivers of freight testified in support of the applications. The hearing examiners denied the applications but the Commission disagreed. After an intensive analysis and comparison of the evidence in support of and in opposition to the applications, it concluded that appellants' applications should be granted.

The Commission found substantial evidence of general dissatisfaction with existing services because of excessive

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 25, 1974

MEMORANDUM FOR THE CONFERENCE

Re: Nos. 73-1055, 73-1069, 73-1070, 73-1071 & 73-1072 -  
Bowman Transportation, Inc. v. Arkansas-  
Best Freight System, Inc.

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If jurisdiction is to be noted in these proceedings, I suggest that the questions we might want to reach are the two questions stated in the Government's jurisdictional statement in No. 73-1072. These issues are also raised by the other four appeals, together with other questions in which I, at least, have no interest. I therefore suggest that we note probable jurisdiction in the Government's case, No. 73-1072. I would also note each of the other cases and direct the parties to limit their arguments to those of the questions presented that correspond to the issues presented by the Government, or, if specific issues should be identified in each case, limiting consideration as follows:

No. 73-1070: Questions 2 and 5

73-1069: Question 2

73-1055: Questions 2 and 4

73-1071: Question 2

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I would also consolidate and perhaps give an hour and one-half for the argument. Three of the appeals were brought by the companies whose certificates of authority were denied by the District Court. Otherwise, it might be appropriate to hold their cases.

*B.R.W.*  
B.R.W.

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U.S. DEPARTMENT OF COMMERCE



Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Harlan  
Mr. Justice Black  
Mr. Justice Powell  
Mr. Justice Rehnquist

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2nd DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

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

UNITED STATES AND INTERSTATE COMMERCE  
COMMISSION *v.* ARKANSAS-BEST FREIGHT  
SYSTEM, INC., ET AL.;

Circulated: 4-17-

BOWMAN TRANSPORTATION, INC. *v.* ARKANSAS-  
BEST FREIGHT SYSTEM, INC., ET AL.;

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JOHNSON MOTOR LINES, INC. *v.* ARKANSAS-  
BEST FREIGHT SYSTEM, INC., ET AL.;

RED BALL MOTOR FREIGHT, INC. *v.* ARKANSAS-  
BEST FREIGHT SYSTEM, INC., ET AL.; and

LORCH-WESTWAY CORPORATION ET AL. *v.*  
ARKANSAS-BEST FREIGHT SYSTEM,  
INC., ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF ARKANSAS

Nos. 73-1072, 73-1055, 73-1069, 73-1070, and 73-1071.

Decided April —, 1974

MR. JUSTICE WHITE, with whom MR. JUSTICE STEWART  
and MR. JUSTICE REHNQUIST join, dissenting.

In 1964 and 1965, appellant motor carriers applied to the Interstate Commerce Commission to extend their regular routine general commodity operating authorities between points in the Southeast and Southwest. Hearings were held in 1966-1967 at which more than 900 shippers and receivers of freight testified in support of the applications. The hearing examiners denied the applications but the Commission disagreed. After an intensive analysis and comparison of the evidence in support of and in opposition to the applications, it concluded that appellants' applications should be granted.

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

April 17, 1974

Re: Nos. 73-1072, 73-1055, 73-1069, 73-1070, and  
73-1071 - United States v. Arkansas-Best Freight,  
et al.

Dear Byron:

Please join me in your dissenting opinion in this case.

Sincerely,

*WHR*

Mr. Justice White

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U.S. DEPARTMENT OF JUSTICE