

The Burger Court Opinion Writing Database

Corning Glass Works v. Brennan

417 U.S. 188 (1974)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



9
CHAMBERS OF
THE CHIEF JUSTICE

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

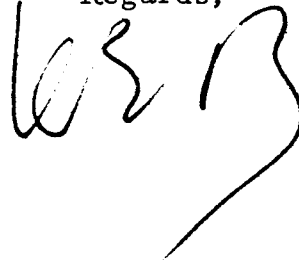
April 29, 1974

Re: No. 73-695 - Brennan v. Corning Glass Works
No. 73-29 - Corning Glass Works v. Brennan

Dear Bill:

My vote is with Harry and Bill Rehnquist so you should assign this for opinion. I will defer other assignments until I learn who will do this since this is our "final go" at assignments.

Regards,



Mr. Justice Douglas

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

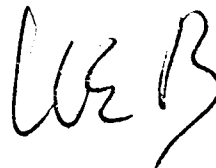
May 24, 1974

Re: 73-29 - Corning Glass Works v. Brennan
73-695 - Brennan v. Corning Glass Works

Dear Thurgood:

Please show that I dissent and would reverse
in 73-29 and affirm in 73-695.

Regards,

A handwritten signature in dark ink, appearing to be "W.E.B." followed by a stylized flourish or surname.

Mr. Justice Marshall

Copies to the Conference

✓

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

✓

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

April 29, 1974

Dear Chief:

Re: 73-29 Corning Glass Works v. Brennan ✓
73-695 Brennan v. Corning Glass Works ✓

I have assigned these cases to Thurgood Marshall.

WD
William O. Douglas

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

May 17, 1974

Dear Thurgood:

Please join me in your opinion in
73-29, Corning Glass Works v. Brennan and
the companion cases.



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.

May 17, 1974

RE: Nos. 73-29 and 73-695 - Corning Glass
v. Peter J. Brennan, etc.

Dear Thurgood:

I agree.

Sincerely,

Bill

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 20, 1974

Re: Nos. 73-29 and 73-695, Corning Glass
Works v. Brennan

Dear Thurgood,

I should appreciate your adding the following
at the foot of your opinion for the Court in these cases:

"Mr. Justice Stewart took no part in
the consideration or decision of these
cases."

Sincerely yours,

P.S.
✓

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 23, 1974

Re: Nos. 73-29 and 73-695 - Corning Glass Works
v. Brennan

Dear Thurgood:

I join your opinion in this case.

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

2nd DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

Nos. 73-29 AND 73-695

Recirculated: _____

Corning Glass Works,
Petitioner,
73-29 v.
Peter J. Brennan, Secretary
of Labor, United States
Department of Labor.

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

Peter J. Brennan, Secretary
of Labor, United States
Department of Labor,
Petitioner,
73-695 v.
Corning Glass Works.

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

[May —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the
Court.

These cases arise under the Equal Pay Act of 1963, 29
U. S. C. § 206 (d)(1),¹ which added to the Fair Labor

¹"No employer having employees subject to any provisions of
this section shall discriminate, within any establishment in which
such employees are employed, between employees on the basis of
sex by paying wages to employees in such establishment at a rate
less than the rate at which he pays wages to employees of the
opposite sex in such establishment for equal work on jobs the per-
formance of which requires equal skill, effort, and responsibility,
and which are performed under similar working conditions, except
where such payment is made pursuant to (i) a seniority system;
(ii) a merit system; (iii) a system which measures earnings by
quantity or quality of production; or (iv) a differential based on
any other factor other than sex: *Provided*, That an employer who

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

3rd DRAFT

From: Marshall, J.

16,21
SUPREME COURT OF THE UNITED STATES

Circulated:

Recirculated: MAY 21 1974

Nos. 73-29 AND 73-695

Corning Glass Works,
Petitioner,
73-29 v.
Peter J. Brennan, Secretary
of Labor, United States
Department of Labor.

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

Peter J. Brennan, Secretary
of Labor, United States
Department of Labor,
Petitioner,
73-695 v.
Corning Glass Works.

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

[May —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the
Court.

These cases arise under the Equal Pay Act of 1963, 29
U. S. C. § 206 (d) (1),¹ which added to the Fair Labor

¹ "No employer having employees subject to any provisions of
this section shall discriminate, within any establishment in which
such employees are employed, between employees on the basis of
sex by paying wages to employees in such establishment at a rate
less than the rate at which he pays wages to employees of the
opposite sex in such establishment for equal work on jobs the per-
formance of which requires equal skill, effort, and responsibility,
and which are performed under similar working conditions, except
where such payment is made pursuant to (i) a seniority system;
(ii) a merit system; (iii) a system which measures earnings by
quantity or quality of production; or (iv) a differential based on
any other factor other than sex: *Provided*, That an employer who

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

4th DRAFT

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

Circulated: _____

Nos. 73-29 AND 73-695

Recirculated: **MAY 28 1974**

Corning Glass Works,
Petitioner,
73-29 v.
Peter J. Brennan, Secretary
of Labor, United States
Department of Labor.

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

Peter J. Brennan, Secretary
of Labor, United States
Department of Labor,
Petitioner,
73-695 v.
Corning Glass Works.

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

[May —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the
Court.

These cases arise under the Equal Pay Act of 1963, 29
U. S. C. § 206 (d)(1),¹ which added to the Fair Labor

¹"No employer having employees subject to any provisions of
this section shall discriminate, within any establishment in which
such employees are employed, between employees on the basis of
sex by paying wages to employees in such establishment at a rate
less than the rate at which he pays wages to employees of the
opposite sex in such establishment for equal work on jobs the per-
formance of which requires equal skill, effort, and responsibility,
and which are performed under similar working conditions, except
where such payment is made pursuant to (i) a seniority system;
(ii) a merit system; (iii) a system which measures earnings by
quantity or quality of production; or (iv) a differential based on
any other factor other than sex: *Provided*, That an employer who

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

5th DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____
Recirculated: **MAY 29 1974**

Nos. 73-29 AND 73-695

Corning Glass Works,
Petitioner,
73-29 v.
Peter J. Brennan, Secretary
of Labor, United States
Department of Labor.

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

Peter J. Brennan, Secretary
of Labor, United States
Department of Labor,
Petitioner,
73-695 v.
Corning Glass Works.

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

[May —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the
Court.

These cases arise under the Equal Pay Act of 1963, 29
U. S. C. § 206 (d)(1),¹ which added to the Fair Labor

¹ "No employer having employees subject to any provisions of
this section shall discriminate, within any establishment in which
such employees are employed, between employees on the basis of
sex by paying wages to employees in such establishment at a rate
less than the rate at which he pays wages to employees of the
opposite sex in such establishment for equal work on jobs the per-
formance of which requires equal skill, effort, and responsibility,
and which are performed under similar working conditions, except
where such payment is made pursuant to (i) a seniority system;
(ii) a merit system; (iii) a system which measures earnings by
quantity or quality of production; or (iv) a differential based on
any other factor other than sex: *Provided*, That an employer who

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 21, 1974

Re: No. 73-29 - Corning Glass Works v. Brennan
No. 73-695 - Brennan v. Corning Glass Works

Dear Thurgood:

Would you please add my name to the comment
Bill Rehnquist has asked you to place at the end of your
opinion. I suppose this means that we "dissent and would
affirm"

Sincerely,



Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 17, 1974

No. 73-29 Corning Glass Works v. Brennan
No. 73-695 Brennan v. Corning Glass Works

Dear Thurgood:

Please join me.

Sincerely,

Lewis

Mr. Justice Marshall

CC: The Conference

LFP/gg

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 17, 1974

Re: No. 73-29 and No. 73-695 - Corning Glass v.
Brennan, et al.

Dear Thurgood:

Would you add at the end of your opinion in this
case the following:

"Mr. Justice Rehnquist would affirm the
judgment of the Court of Appeals for the
Third Circuit and reverse the judgment
of the Court of Appeals for the Second
Circuit for the reasons stated by Judge
Adams in his opinion for the Court of
Appeals in Brennan v. Corning Glass Works
(CA 3), 480 F. 2d 1254."

Sincerely,



Mr. Justice Marshall

Copies to the Conference