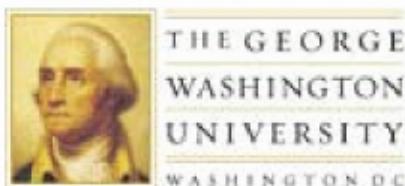


The Burger Court Opinion Writing Database

United States v. Wilson

421 U.S. 309 (1975)

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
THE CHIEF JUSTICE

February 21, 1975

Re: No. 72-1395 - United States v. Wilson

Dear Thurgood:

I join in your proposed opinion dated January 24, 1975.

Regards,

WB

Mr. Justice Marshall

Copies to the Conference

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

2nd DRAFT

From:

SUPREME COURT OF THE UNITED STATES *2-10*

No. 73-1395

Recirculate:

United States, Petitioner, | On Writ of Certiorari to the
v. | United States Court of Ap-
George J. Wilson, Jr. | peals for the Third Circuit.

[January —, 1975]

MR. JUSTICE DOUGLAS, dissenting.

Respondent Wilson was indicted for converting to his own use funds of Local 367, IBEW, which he served as business manager and financial secretary. The theory of the prosecution was that respondent had caused union funds to be expended for a wedding reception of respondent's daughter. It was undisputed that a check drawn on the union, and signed by two union officers, Brinker and Schaefer, had been forwarded to the hotel where the wedding reception of respondent's daughter had been held, and that the hotel had applied the payment in satisfaction of debts incurred on account of the reception.

The funds were paid in November 1966. An indictment was returned in October 1971, three days prior to the running of the statute of limitations. By that time, neither of the two signatories to the union check were available to testify in the case. Brinker had died in 1968; Schaefer was terminally ill. Respondent filed a pretrial motion to dismiss the indictment on the ground that preindictment delay violated the Due Process Clause of the Fifth Amendment. See *United States v. Marion*, 404 U. S. 307. Specifically, respondent argued that the unavailability of the two signatories, caused by preindictment delay, prejudiced his defense. After two pretrial hearings, the District Court denied the motion.

At the trial, it was established that the local's attorney, one Burke, had made a \$1,000 deposit at the hotel where

To : The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice
Mr. Justice
Mr. Justice

From: Douglas

Circulate: _____

Recirculate: 2-20

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1395

United States, Petitioner, | On Writ of Certiorari to the
v. | United States Court of Ap-
George J. Wilson, Jr. | peals for the Third Circuit.

[February —, 1975]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN joins, dissenting.

Respondent Wilson was indicted for converting to his own use funds of Local 367, IBEW, which he served as business manager and financial secretary. The theory of the prosecution was that respondent had caused union funds to be expended for his daughter's wedding reception. It was undisputed that a check drawn on the union and signed by two union officers, Brinker and Schaefer, had been forwarded to the hotel where the wedding reception had been held, and that the hotel had applied the payment in satisfaction of debts incurred on account of the reception.

The funds were paid in November 1966. An indictment was returned in October 1971, three days prior to the running of the statute of limitations. By that time, neither of the two signatories to the union check were available to testify in the case. Brinker had died in 1968; Schaefer was terminally ill. Respondent filed a pretrial motion to dismiss the indictment on the ground that preindictment delay violated the Due Process Clause of the Fifth Amendment. See *United States v. Marion*, 404 U. S. 307. Specifically, respondent argued that the unavailability of the two signatories, caused by preindictment delay, prejudiced his defense. After two pretrial hearings, the District Court denied the motion.

At the trial, it was established that the local's attorney,

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

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

February 10, 1975

RE: No. 73-1395 United States v. Wilson

Dear Bill:

Please join me in your dissenting opinion
in the above.

Sincerely,



Mr. Justice Douglas

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 4, 1975

No. 72-1395, United States v. Wilson

Dear Thurgood,

I am glad to join your opinion
for the Court 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 BYRON R. WHITE

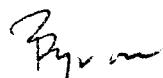
January 28, 1975

Re: No. 72-1395 - United States v. Wilson

Dear Thurgood:

I am in general agreement with your opinion.
But because I may be in dissent in Jenkins, I shall
await the circulation in that case.

Sincerely,



Mr. Justice Marshall

Copies to Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 10, 1975

Re: No. 73-1395 - U. S. v. Wilson

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

From: Marshall, J.

Circulated: JAN 24 '75

Recirculated: 1975

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1395

United States, Petitioner, | On Writ of Certiorari to the
v. | United States Court of Ap-
George J. Wilson, Jr. | peals for the Third Circuit,

[February —, 1975]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Respondent George J. Wilson, Jr., was tried in the Eastern District of Pennsylvania for converting union funds to his own use, in violation of 29 U. S. C. § 501 (c). The jury entered a guilty verdict, but on a postverdict motion the District Court dismissed the indictment. The court ruled that the delay between the offense and the indictment had prejudiced the defendant, and that dismissal was called for under this Court's decision in *United States v. Marion*, 404 U. S. 307 (1971). The Government sought to appeal the dismissal to the Court of Appeals for the Third Circuit, but that court held that the Double Jeopardy Clause barred review of the District Court's ruling. 492 F. 2d 1345. We granted certiorari to consider the applicability of the Double Jeopardy Clause to appeals from postverdict rulings by the trial court. 417 U. S. 908 (1974). We reverse.

I

In April 1968 the FBI began an investigation of respondent Wilson, the business manager of Local 367 of the International Brotherhood of Electrical Workers. The investigation focused on Wilson's suspected conversion in 1966 of \$1,233.15 of union funds to pay part of

Wm. Douglas
Oct 4 74

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 6, 1975

Re: No. 73-1395 - United States v. Wilson

Dear Thurgood:

Please join me.

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 5, 1975

No. 72-1395 U.S. v. Wilson

Dear Thurgood:

Please join me.

Sincerely,

Lewis

Mr. Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 29, 1975

Re: No. 73-1395 - United States v. Wilson

Dear Thurgood:

Please join me.

Sincerely,

Mr. Justice Marshall

Copies to the Conference