

The Burger Court Opinion Writing Database

United States v. Jenkins

420 U.S. 358 (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

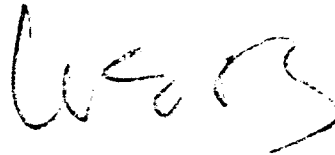
February 21, 1975

Re: No. 73-1513 - United States v. Jenkins

Dear Bill:

I join in your circulation dates February 13, 1975.

Regards,



Mr. Justice Rehnquist

Copies to the Conference

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U.S. SUPREME COURT ADVANCE COPY

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

✓
February 11, 1975

Dear Bill:

Re: United States v. Jenkins, 73-1513.

Please add at the end of your opinion in U. S. v. Jenkins the following statement:

I would hold that the Double Jeopardy Clause bars the government's appeal from the ruling of this trial court in respondent's favor. See Fong Foo v. United States, 369 US 141. Accordingly I concur in the affirmance of the judgment below.

WILLIAM O. DOUGLAS

Mr. Justice Rehnquist

cc: The Conference

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U.S. SUPREME COURT RECORDS

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

February 12, 1975

RE: No. 73-1513 United States v. Jenkins

Dear Bill:

Please join me in your statement to be added
at the foot of Bill Rehnquist's opinion in the above.

Sincerely,

Bill

Mr. Justice Douglas

cc: The Conference

✓

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U.S. DEPARTMENT OF JUSTICE

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 4, 1975

No. 73-1513, United States v. Jenkins

Dear Bill,

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

Sincerely yours,

P.S.
1

Mr. Justice Rehnquist

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SECTION OF ADVISORY

✓

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 10, 1975

Re: No. 73-1513 - U. S. v. Jenkins

Dear Bill:

I do not differ in principle with your
circulation and will acquiesce.

Sincerely,



Mr. Justice Rehnquist

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OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT RECORDS

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 14, 1975

Re: No. 73-1513 -- United States v. Ronald S. Jenkins

Dear Bill:

Please join me.

Sincerely,

T.M.
T. M.

Mr. Justice Rehnquist

cc: The Conference

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SECRET NO ADVANCE IN

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 6, 1975

Re: No. 73-1513 - United States v. Jenkins

Dear Bill:

Please join me.

Sincerely,

Harry

Mr. Justice Rehnquist

cc: The Conference

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IN THE MANUSCRIPT DIVISION

U.S. SUPREME COURT RECORDS

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

February 5, 1975

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

No. 73-1513 United States v. Jenkins

Dear Bill:

Although I voted the other way tentatively, your opinion persuades me.

Accordingly, please join me.

Sincerely,

Lewis

Mr. Justice Rehnquist

lfp/ss

cc: The Conference

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THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1513

United States,
Petitioner,
v.
Ronald S. Jenkins. } On Writ of Certiorari to the United
States Court of Appeals for the
Second Circuit.

[February —, 1975]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Respondent Jenkins was indicted and charged with violating 50 U. S. C. App. § 462 (a) for "knowingly refusing and failing to submit to induction into the armed forces of the United States." App. 3. After a bench trial, the District Court "dismissed" the indictment and "discharged" the respondent. 349 F. Supp. 1068, 1073 (EDNY 1972). The Government sought to appeal this ruling pursuant to 18 U. S. C. § 3731,¹ but the Court of Appeals for the Second Circuit dismissed the appeal "for lack of jurisdiction on the ground that the Double Jeopardy Clause prohibits further prosecution." 490 F. 2d

¹ Title 18 U. S. C. § 3731 (1970) provides, in relevant part:

"In a criminal case an appeal by the United States shall lie to a court of appeals from a decision, judgment, or order of a district court dismissing an indictment or information as to any one or more counts, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

"The appeal in all such cases shall be taken within thirty days after the decision, judgment or order has been rendered and shall be diligently prosecuted.

"The provisions of this section shall be liberally construed to effectuate its purposes."

REPRODUCED FROM THE COLLECTION OF THE MANUSCRIPT DIVISION

U. S. DEPARTMENT OF JUSTICE

To: The Chief Justice
of the United States
Supreme Court Building
Washington, D.C.
20540

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

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

from: Rehnquist, J.

circulated.

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3rd DRAFT

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4th DRAFT

SUPREME COURT OF THE UNITED STATES

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