

# 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

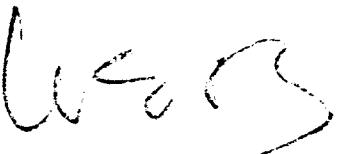
February 21, 1975

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

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

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

CHAMBERS OF  
JUSTICE W. 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,



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. 73-1513, United States v. Jenkins

Dear Bill,

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

Sincerely yours,

?S  
-/-

Mr. Justice Rehnquist

Copies to the Conference

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

Copies to Conference

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

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

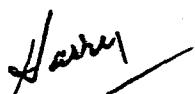
February 6, 1975

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

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

February 5, 1975

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,



Mr. Justice Rehnquist

lfp/ss

cc: The Conference

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

1st DRAFT

1st DRAFT

Feb. 1, 1975

# 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,<sup>1</sup> 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

<sup>1</sup> 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."

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.

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3rd DRAFT

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4, 10

4th DRAFT

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