

The Burger Court Opinion Writing Database

Gurley v. Rhoden

421 U.S. 200 (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

May 6, 1975

Re: 73-1734 - Gurley v. Rhoden

Dear Bill:

Please join me. -

Regards,

WRB

Mr. Justice Brennan

Copies to the Conference

REPRODUCED FROM THE COLLECTION

OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT

W 5 3
10-2-75
To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: Brennan, J.

Circulated: 11/29/75

Recirculated: _____

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1734

| | |
|--|--|
| W. M. Gurley, dba Gurley Oil Company, Petitioner, v. Arny Rhoden, Etc. | } On Writ of Certiorari to the Supreme Court of Missis- sippi. |
|--|--|

[May —, 1975]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

Mississippi imposes a 5% sales tax upon the "gross proceeds of the retail sales" of tangible personal property, including gasoline. Miss. Code Ann. § 27-65-17.¹ Petitioner is a retailer of gasoline operating several service stations in Mississippi.² He adds to his pump prices the amount of a Mississippi gasoline excise tax now nine cents per gallon, Miss. Code Ann. § 27-55-11, and a

¹ Section 27-65-17 provides in pertinent part:

"Upon every person engaging or continuing within this state in the business of selling any tangible property whatsoever, there is hereby levied, assessed and shall be collected a tax equal to five percent of the gross proceeds of the retail sales of the business, except as otherwise provided herein"

² Petitioner operates as a sole proprietorship from West Memphis, Arkansas. He owns and operates five gasoline service stations in Mississippi and also sells gasoline to four other stations in Mississippi on a consignment basis. He purchases his gasoline tax-free from sources in Tennessee and Arkansas. He transports the gasoline to his Mississippi stations in his own trucks. He holds a Mississippi Distributor's Permit and is also federally licensed because he is a "producer" within the meaning of that federal act as one who sells gasoline bought tax free from other "producers." 26 U. S. C. § 4082, *supra*, n. 3.

STYLISTIC CHANGES

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

From: Brennan, J.

Circulated: _____

Re-circulated: 5-1-71

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1734

| | |
|--|--|
| W. M. Gurley, dba Gurley Oil Company, Petitioner, v. Arny Rhoden, Etc. | } On Writ of Certiorari to the Supreme Court of Missis- sippi. |
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[May —, 1975]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

Mississippi imposes a 5% sales tax upon the "gross proceeds of the retail sales" of tangible personal property, including gasoline. Miss. Code Ann. § 27-65-17.¹ Petitioner operates as a sole proprietorship from West Memphis, Arkansas. He owns and operates five gasoline service stations in Mississippi and also sells gasoline at four other stations in Mississippi on a consignment basis. He purchases his gasoline tax-free from sources in Tennessee and Arkansas. He transports the gasoline to his Mississippi stations in his own trucks. He holds a Mississippi Distributor's Permit and is also federally licensed because he is a "producer" within the meaning of that federal act as one who sells gasoline bought tax free from other "producers."² He adds to his pump prices the amount of a Mississippi gasoline excise tax now nine

¹ Section 27-65-17 provides in pertinent part:

"Upon every person engaging or continuing within this state in the business of selling any tangible property whatsoever, there is hereby levied, assessed and shall be collected a tax equal to five percent of the gross proceeds of the retail sales of the business, except as otherwise provided herein . . ."

² Title 26 U. S. C. § 4082, *supra*, n. 3.

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RECORDS OF THE SUPREME COURT

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 29, 1975

Re: No. 73-1734, Gurley v. Rhoden

Dear Bill,

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

Sincerely yours,

PS:
/

Mr. Justice Brennan

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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 BYRON R. WHITE

April 30, 1975

Re: No. 73-1734 - Gurley v. Rhoden

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

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U.S. DEPARTMENT OF JUSTICE

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 30, 1975

Re: No. 73-1734 -- W. M. Gurley, dba Gurley Oil Company v.
Arny Rhoden, Etc.

Dear Bill:

Please join me.

Sincerely,

T.M.
T.M.

Mr. Justice Brennan

cc: The Conference

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U.S. SUPREME COURT ARCHIVES

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

✓
May 2, 1975

Re: No. 73-1734 - Gurley v. Rhoden

Dear Bill:

Please join me.

Sincerely,

Harry
—

Mr. Justice Brennan

cc: The Conference

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OFFICE OF THE CLERK OF THE SUPREME COURT

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 30, 1975

No. 73-1734 Gurley v. Rhoden

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

lfp/ss

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 WILLIAM H. REHNQUIST

May 1, 1975

Re: No. 73-1734 - Gurley v. Rhoden

Dear Bill:

Please join me.

Sincerely,

[Signature]

Mr. Justice Brennan

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OFFICE OF THE CLERK OF THE SUPREME COURT