

# The Burger Court Opinion Writing Database

*Foster v. Dravo Corp.*

420 U.S. 92 (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. 20542

CHAMBERS OF  
THE CHIEF JUSTICE

February 12, 1975

Re: 73-1773 - Foster v. Dravo Corporation

Dear Thurgood:

I join in your proposed draft opinion dated  
February 6, 1975.

Regards,  
*LGK/B*

Mr. Justice Marshall

Copies to the Conference

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

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

January 27, 1975

MEMORANDUM TO THE CHIEF JUSTICE

RE: No. 73-1773 Foster v. Dravo

I passed at conference to determine whether our disposition of Eagar v. Magma Copper Co., 389 U.S. 323 (1967) required a reversal. I am now satisfied that it does not and vote to Affirm.

W.J.B.Jr.

cc: The Conference

Wm. Draper  
OC 7/

Supreme Court of the United States  
Washington, D. C. 20542

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

February 7, 1975

RE: No. 73-1773 Foster v. Dravo Corporation

Dear Thurgood:

I agree.

Sincerely,



Mr. Justice Marshall

cc: The Conference

✓  
Supreme Court of the United States  
Washington, D. C. 20543CHAMBERS OF  
JUSTICE POTTER STEWART

February 11, 1975

No. 73-1773, Foster v. Dravo Corp.

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

February 10, 1975

Re: No. 73-1773 - Foster v. Dravo Corp.

Dear Thurgood:

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

1st DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

Circulated: FEB 6 1975

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No. 73-1773

Earl R. Foster,  
Petitioner, } On Writ of Certiorari to the United  
v. } States Court of Appeals for the  
Dravo Corporation. } Third Circuit.

[February —, 1975]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Through the Military Selective Service Act, Congress has sought to protect veterans returning to civilian jobs from being penalized for having served in the armed forces. Section 9 of the Act, 50 U. S. C. App. § 459, ensures a returning serviceman the right to be restored to his job with the same levels of seniority, status and pay that he would have enjoyed if he had held the job throughout the time he was in the military.<sup>1</sup> This case

<sup>1</sup> Section 9 (b) provides a right to re-employment for any serviceman "who has left or leaves a position . . . and . . . makes application for re-employment within ninety days after he is relieved from such training and service." Section 9 (b)(B)(i) adds that if the serviceman is "still qualified to perform the duties of such position, [he shall] be restored by such employer . . . to such position or a position of like seniority, status, and pay." Section 9 (c), which governs the rights of those restored to positions after return from the service, provides in relevant part:

"(1) Any person who is restored to a position in accordance with the provisions of . . . this section shall be considered as having been on furlough or leave of absence during his period of training and service in the armed forces, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and prac-

Wm. Vagle  
2/17/75

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

February 10, 1975

Re: No. 73-1773 - Foster v. Dravo Corp.

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 10, 1975

No. 73-1773 Foster v. Dravo Corp.

Dear Thurgood:

Please join me.

Sincerely,

*Lewis*

Mr. Justice Marshall

1fp/ss

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

February 12, 1975

Re: No. 73-1773 - Foster v. Dravo

Dear Thurgood:

Please join me.

Sincerely,

*WR*

Mr. Justice Marshall

Copies to the Conference

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