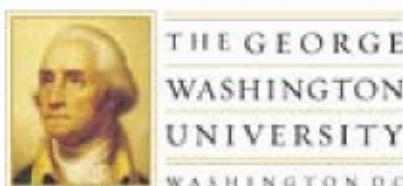


The Burger Court Opinion Writing Database

Muniz v. Hoffman

422 U.S. 454 (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

June 6, 1975

Re: 73-1924 - Muniz v. Hoffman

Dear Byron:

I am prepared to join an opinion along
the lines of your June 2 memorandum.

Regards,

lesb

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

June 11, 1975

Re: No. 73-1924 - Muniz v. Hoffman

Dear Byron:

I shall circulate a dissenting statement in this case.

Sincerely,

W.O.D.

Mr. Justice White

cc: The Conference

file
ci
6/2

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1924

James R. Muniz et al.,
Petitioners,
v.
Roy O. Hoffman, Director,
Region 20, National
Labor Relations
Board. } On Writ of Certiorari to the
United States Court of
Appeals for the Ninth
Circuit.

[June —, 1975]

MR. JUSTICE DOUGLAS, dissenting.

I

I believe that petitioners are entitled to trial by jury under 18 U. S. C. § 3692, which provides that, with certain exceptions not here material,

"In all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute, the accused shall enjoy the right to a speedy and public trial by an impartial jury...."

In enacting this language in 1948, Congress reaffirmed the purpose originally expressed in § 11 of the Norris-LaGuardia Act. That Act was intended to shield the organized labor movement from the intervention of a federal judiciary perceived by some as hostile to labor. The Act severely constrained the power of a federal court to issue an injunction against any person "participating or interested in a labor dispute." Section 11 provided for trial by jury "in all cases arising under this Act in which a person shall be charged with contempt."

Oct 11, 1975
Wm. Douglas

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

See pp 1-4

2nd DRAFT

SUPREME COURT OF THE UNITED STATES: J.

No. 73-1924

Circulate:

Recirculate:

6-23

James R. Muniz et al.,
Petitioners,
v.
Roy O. Hoffman, Director,
Region 20, National
Labor Relations
Board. } On Writ of Certiorari to the
United States Court of
Appeals for the Ninth
Circuit.

[June —, 1975]

MR. JUSTICE DOUGLAS, dissenting.

I

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In enacting this language in 1948, Congress reaffirmed the purpose originally expressed in § 11 of the Norris-LaGuardia Act. That Act was intended to shield the organized labor movement from the intervention of a federal judiciary perceived by some as hostile to labor. The Act severely constrained the power of a federal court to issue an injunction against any person “participating or interested in a labor dispute.” Section 11 provided for trial by jury “in all cases arising under this Act in which a person shall be charged with contempt.” In the context of the case now before us, I view this

Supreme Court of the United States
Washington, D. C. 20543CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 2, 1975

RE: No. 73-1924 Muniz v. Hoffman

Dear Byron:

I agree with your memorandum as recirculated
and would join it as an opinion for the Court.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 11, 1975

RE: No. 73-1924 Muniz v. Hoffman

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 22, 1975

No. 73-1924 - Muniz v. Hoffman

Dear Byron,

Since I am of the view that there was a statutory right to a jury trial in this case, I shall in due course circulate a dissenting memorandum.

Sincerely yours,

P.S.
P.

Mr. Justice White

Copies to the Conference

✓
P.D.
R. 2nd DRAFT
110

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

Franklin D. Roosevelt, Jr.

2nd DRAFT MAY 27 1975

SUPREME COURT OF THE UNITED STATES

No. 73-1924

James R. Muniz et al., Petitioners, v. Roy O. Hoffman, Director, Region 20, National Labor Relations Board,	On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.
---	---

[June —, 1975]

MR. JUSTICE STEWART, dissenting.

In 1948 Congress repealed § 11 of the Norris-LaGuardia Act, which provided a right to a jury trial in cases of contempt arising under that Act, and added § 3692 to Title 18 of the United States Code, broadly guaranteeing a jury trial “[i]n all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute.” I cannot agree with the Court’s conclusion that this congressional action was without any significance and that § 3692 does not apply to any contempt proceedings involving injunctions that may be issued pursuant to the National Labor Relations Act. Accordingly, I would reverse the judgment before us.

The contempt proceedings in the present case arose out of a dispute between Local 21 of the International Typographical Union and the San Rafael Independent Journal. Local 21 represents the Independent Journal’s composing room employees. Following expiration of the old collective-bargaining agreement between Local 21 and the Independent Journal, negotiations for a new agreement reached an impasse. As a result, Local 21

STYLISTIC CHANGES THROUGHOUT.

Pp. 1, 3, 4

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

From: Stewart, J.

Circulated:

3rd DRAFT

Recirculated: JUN 4 1975

SUPREME COURT OF THE UNITED STATES

No. 73-1924

James R. Muniz et al.,
Petitioners,
v.
Roy O. Hoffman, Director,
Region 20, National
Labor Relations
Board. } On Writ of Certiorari to the
United States Court of
Appeals for the Ninth
Circuit.

[June —, 1975]

MR. JUSTICE STEWART, with whom MR. JUSTICE MARSHALL and MR. JUSTICE POWELL join, dissenting.

In 1948 Congress repealed § 11 of the Norris-LaGuardia Act, which provided a right to a jury trial in cases of contempt arising under that Act, and added § 3692 to Title 18 of the United States Code, broadly guaranteeing a jury trial “[i]n all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute.” I cannot agree with the Court’s conclusion that this congressional action was without any significance and that § 3692 does not apply to any contempt proceedings involving injunctions that may be issued pursuant to the National Labor Relations Act. Accordingly, I would reverse the judgment before us.

The contempt proceedings in the present case arose out of a dispute between Local 21 of the International Typographical Union and the San Rafael Independent Journal. Local 21 represents the Independent Journal’s composing room employees. Following expiration of the old collective-bargaining agreement between Local 21 and the Independent Journal, negotiations for a new

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 22, 1975

MEMORANDUM FOR THE CONFERENCE

Re: No. 73-1924 - Muniz v. Hoffman

In circulating this memorandum as requested, I should say that because the Government really does not contend that corporations are not entitled to a jury trial in any criminal case, I have concluded that we should not address that broader issue. The Government does argue that the traditional rule expressed in Green that contemnors have no right to a jury trial has not been abrogated and should not be abrogated when the contemnor is a corporation. Having found this middle ground an unsatisfactory stopping point, regardless of the direction in which one was headed, I suggest that for now we sustain the alternative ground urged by the United States -- that a fine of \$10,000 on this union did not turn this proceeding into a serious contempt case triggering the right to a jury trial.



B.R.W.

BRW
Phy

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

From: White, J.

Circulated: 5-22-75

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1924

James R. Muniz et al.,
Petitioners,
v.
Roy O. Hoffman, Director,
Region 20, National
Labor Relations
Board. } On Writ of Certiorari to the
United States Court of
Appeals for the Ninth
Circuit.

[May —, 1975]

Memorandum of MR. JUSTICE WHITE.

The issue in this case is whether, under 18 U. S. C. § 3692 or the United States Constitution, an unincorporated labor union, when charged with criminal contempt for violating an injunction issued pursuant to § 10 (l) of the Labor Management Relations Act, 29 U. S. C. § 160 (l), has a right to jury trial if a fine of as much as \$10,000 is to be imposed.

I

Early in 1970, Local 21 of the San Francisco Typographical Union commenced picketing of a publishing plant of a daily newspaper in San Rafael, California. Shortly thereafter, the newspaper filed an unfair labor practice charge against this union activity and the Regional Director of the National Labor Relations Board, in response to that filing, petitioned the District Court pursuant to § 10 (l) of the Labor Management Relations Act, 29 U. S. C. § 160 (l), for a temporary injunction against those activities pending final disposition of

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 1-6, 9-10, 14-15

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

From: White, J.

Circulated: _____

Recirculated: 6-2-75

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1924

James R. Muniz et al.,
Petitioners,
v.
Roy O. Hoffman, Director,
Region 20, National
Labor Relations
Board. | On Writ of Certiorari to the
United States Court of
Appeals for the Ninth
Circuit.

[May —, 1975]

Memorandum of MR. JUSTICE WHITE.

The issues in this case are whether a labor union or an individual, when charged with criminal contempt for violating an injunction issued pursuant to § 10 (l) of the Labor Management Relations Act, 29 U. S. C. § 160 (l), has a right to a jury trial under 18 U. S. C. § 3692, and whether the union has a right to a jury trial under the Constitution when charged with such a violation and a fine of as much as \$10,000 is to be imposed.

I

Early in 1970, Local 21 of the San Francisco Typographical Union commenced picketing of a publishing plant of a daily newspaper in San Rafael, California. Shortly thereafter, the newspaper filed an unfair labor practice charge against this union activity and the Regional Director of the National Labor Relations Board, in response to that filing, petitioned the District Court pursuant to § 10 (l) of the Labor Management Relations Act, 29 U. S. C. § 160 (l), for a temporary injunc-

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 11, 1975

MEMORANDUM TO THE CONFERENCE

Re: No. 73-1924 - Muniz v. Hoffman

In the course of transforming the prior memorandum into a suggested opinion for the Court, there has been some reorganization and there are substantial additions on pages 15 through 19.


B.R.W.

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

From: White, J.

Circulated: _____

Recirculated: 6-11-75

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1924

James R. Muniz et al., Petitioners, v. Roy O. Hoffman, Director, Region 20, National Labor Relations Board.	On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.
---	---

[June —, 1975]

MR. JUSTICE WHITE delivered the opinion of the Court.

The issues in this case are whether a labor union or an individual, when charged with criminal contempt for violating an injunction issued pursuant to § 10 (l) of the Labor Management Relations Act, 29 U. S. C. § 160 (l), has a right to a jury trial under 18 U. S. C. § 3692, and whether the union has a right to a jury trial under the Constitution when charged with such a violation and a fine of as much as \$10,000 is to be imposed.

I

Early in 1970, Local 21 of the San Francisco Typographical Union commenced picketing of a publishing plant of a daily newspaper in San Rafael, California. Shortly thereafter, the newspaper filed an unfair labor practice charge against this union activity and the Regional Director of the National Labor Relations Board, in response to that filing, petitioned the District Court pursuant to § 10 (l) of the Labor Management Relations Act, 29 U. S. C. § 160 (l), for a temporary injunc-

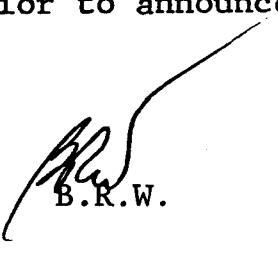
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 23, 1975

MEMORANDUM TO THE CONFERENCE

Attached is a portion of the opinion in Muniz v. Hoffman, No. 73-1924, containing new footnote 5. Renumbering of footnotes to accommodate this additional footnote, plus additional stylistic changes, have been made in the final draft of the opinion scheduled to come down Wednesday morning. Due to the back-up in the printing of opinions, no further circulation of the entire opinion is planned prior to announcement Wednesday morning.


B.R.W.

73-1924—OPINION

in contempt actions arising out of labor disputes. But § 11 was among those sections which § 10 (h) expressly provided would not limit the power of federal courts to enforce Board orders. Moreover, § 11 was limited by its own terms and by judicial decision to cases "arising under" the Norris-LaGuardia Act. *United States v. United Mine Workers*, 330 U. S. 258, 298 (1947). Injunctions issued pursuant to either the Wagner or Taft-Hartley Acts were not issued "under," but in spite of Norris-LaGuardia; and contempt actions charging violations of those injunctions were not "cases arising under" Norris-LaGuardia. Section 11 of Norris-LaGuardia was thus on its face inapplicable to injunctions authorized by the Wagner and Taft-Hartley Acts; petitioners do not contend otherwise. In their brief, p. 41, they say: "From the effective date of Taft-Hartley in late summer, 1947, until June 28, 1948, the effective date of the new § 3692, an alleged contemnor of a Taft-Hartley injunction would probably have been denied the jury trial guaranteed by § 11 of Norris-LaGuardia, because the injunction would not have been one arising under Norris-LaGuardia itself."

It would be difficult to contend otherwise. It seems beyond doubt that since 1935 it had been understood that the injunctions and enforcement orders referred to in § 10 (h) were not subject to the jury requirements of § 11 of Norris-LaGuardia. When Congress subjected labor unions to unfair labor practice proceedings in 1947, and in §§ 10 (j) and 10 (l) provided for interim injunctive relief from the courts pending Board decision

⁵ The position of MR. JUSTICE DOUGLAS, dissenting, *post*, at —, that injunctions issued pursuant to the Wagner and Taft-Hartley Acts are or would have been "arising under" the Norris-LaGuardia Act, and therefore subject to § 11 prior to 1948, is contrary to the understanding of the Congresses that passed the Wagner Act, n. 6, *infra*, and the Taft-Hartley Act, *post*, at ——, and every court to have considered this question, see cases cited n. 12, *infra*.



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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 22, 1975

Re: No. 73-1924 -- James R. Muniz v. Roy O. Hoffman

Dear Byron:

I do not agree with your memorandum and
await Potter's circulation.

Sincerely,

T.M.
T. M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 2, 1975

Re: No. 73-1924 -- James R. Muniz v. Roy O. Hoffman

Dear Potter:

Please join me.

Sincerely,

T. M.
T. M.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 2, 1975

Re: No. 73-1924 - Muniz v. Hoffman

Dear Byron:

I am with you on the memorandum you have circulated for this case.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 28, 1975

No. 73-1924 Muniz v. Hoffman

Dear Potter:

Please join me in your dissent.

Sincerely,



Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 2, 1975

Re: No. 73-1924 - Muniz v. Hoffman

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

Copies to the Conference