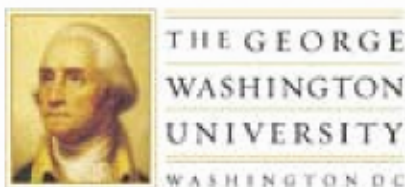


The Burger Court Opinion Writing Database

Otte v. United States

419 U.S. 43 (1974)

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

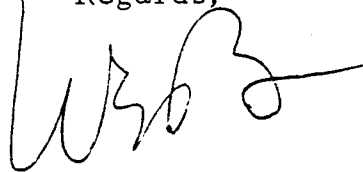
November 15, 1974

Re: 73-375 - Otte v. U. S.

Dear Harry:

Please join me.

Regards,

A handwritten signature in dark ink, appearing to be "W. E. Burger", written in a cursive style.

Mr. Justice Blackmun

Copies to the Conference

✓

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

November 9, 1974

Dear Harry:

In 73-375, Otte v. United States, I have a different view on the treatment of "wages" and on the priority issue, but I will acquiesce in what you have written (unless perchance some one writes in dissent) as I think it more important that the rule of bankruptcy administration be settled than that it be settled right.

W. O. Douglas
William O. Douglas

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

November 11, 1974

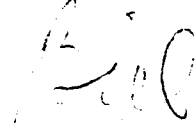
RE: William Otte v. United States, et al.

73-375

Dear Harry:

I agree.

Sincerely,



Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

November 11, 1974

No. 73-375 - Otte v. U. S.

Dear Harry,

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

Sincerely yours,

P.S.
/

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

November 13, 1974

Re: No. 73-375 - Otte v. United States and the
City of New York

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 14, 1974

Re: No. 73-375 -- William Otte, Trustee in Bankruptcy
of Freedomland, Inc., v. United States
and the City of New York

Dear Harry:

Please join me in your opinion in this case.

Sincerely,

J.M.
T.M.

Mr. Justice Blackmun

cc: The Conference

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

1st DRAFT

From: Blackmun, J.

SUPREME COURT OF THE UNITED STATES

Circulated: 11/3

Recirculated: _____

No. 73-375

William Otte, Trustee in Bank-
ruptcy of Freedomland,
Inc., Petitioner.
v.
United States and the City of
New York.

On Writ of Certiorari
to the United States
Court of Appeals for
the Second Circuit.

[November —, 1974]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

This bankruptcy case raises issues (a) as to whether priority claims for wages earned by employees prior to an employer's bankruptcy, but unpaid at the inception of the bankruptcy proceeding, are subject to withholding taxes, and, if so, (b) as to whether the taxing entities must file proofs of claim, and (c) as to which priority of payment, if any, the withholding taxes enjoy under § 64 (a) of the Bankruptcy Act (the Act), 11 U. S. C. § 104 (a).¹

¹ § 104. Debts which have priority.

(a) The debts to have priority, in advance of the payment of dividends to creditors, and to be paid in full out of bankrupt estates, and the order of payment, shall be (1) the costs and expenses of administration, including the actual and necessary costs and expenses of preserving the estate subsequent to filing the petition (2) wages and commissions, not to exceed \$600 to each claimant, which have been earned within three months before the date of the commencement of the proceeding, due to workmen. . . . (4) taxes which became legally due and owing by the bankrupt to the United States or to any State or any subdivision thereof which are not released by a discharge in bankruptcy

ff 214

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

2nd DRAFT

From: Blackmun, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____

No 73-375

Recirculated: 11/14/74

William Otte, Trustee in Bank-
ruptcy of Freedomland,
Inc., Petitioner,
v.
United States and the City of
New York.

On Writ of Certiorari
to the United States
Court of Appeals for
the Second Circuit.

[November —, 1974]

MR. JUSTICE BLACKMUN delivered the opinion of the
Court.

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an employer's bankruptcy, but unpaid at the inception
of the bankruptcy proceeding, are subject to withholding
taxes, and, if so, (b) as to whether the taxing entities
must file proofs of claim, and (c) as to which priority
of payment, if any, the withholding taxes enjoy under
§ 64 (a) of the Bankruptcy Act (the Act), 11 U. S. C.
§ 104 (a).¹

¹§ 104. Debts which have priority

"(a) The debts to have priority, in advance of the payment of
dividends to creditors, and to be paid in full out of bankrupt estates,
and the order of payment, shall be (1) the costs and expenses of
administration, including the actual and necessary costs and expenses
of preserving the estate subsequent to filing the petition
(2) wages and commissions, not to exceed \$600 to each claimant,
which have been earned within three months before the date of
the commencement of the proceeding, due to workmen. . . .
(4) taxes which became legally due and owing by the bankrupt to
the United States or to any State or any subdivision thereof which
are not released by a discharge in bankruptcy"

73-375

Supreme Court of the United States

Memorandum

11-15, 19-----

Harry —
I'll join
your Attor
opinion.
Lewis

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

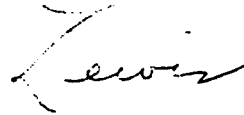
November 15, 1974

No. 73-375 Otte v. U.S. and City of
New York

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

lfp/ss

cc: The Conference

142-2

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

November 11, 1974

Re: No. 73-375 - Otte v. United States

Dear Harry:

I am happy to join your opinion. While I voted at Conference to give these claims a first priority, I do not think the point worth pursuing in a dissent.

Sincerely,



Mr. Justice Blackmun

Copies to the Conference