

The Burger Court Opinion Writing Database

Norton v. Mathews

427 U.S. 524 (1976)

Paul J. Wahlbeck, George Washington University
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Gail - next. Cf.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

Postpone Juris

*True - This is related to
Salfi - Will you look at it?*

June 12, 1975

DISCUSS

MEMORANDUM TO THE CONFERENCE

Re: No. 74-6212 - Norton v. Weinberger

I have taken the liberty of asking Mike Rodak to relist this case for me at our next Conference, even though there were five votes to note probable jurisdiction limited to the constitutional question at today's Conference. My reason for doing so is that the presently circulating draft opinion in Salfi contains a reservation as to the question of whether a District Court exercising jurisdiction under § 205(g) of the Social Security Act may issue an injunction. If that circulation does become a Court opinion, there will be presented on the appeal in Norton the issue as to whether this Court has jurisdiction under 28 U.S.C. § 1253, since that section limits our appellate jurisdiction to an action required to be heard by a three-judge court, and 28 U.S.C. § 2282 requires a three-judge court only when application is made for an interlocutory or permanent injunction restraining the enforcement of . . . "any Act of Congress for repugnance to the Constitution of the United States . . .". This question is presented in Norton though not in Salfi because in the latter case we have jurisdiction under 28 U.S.C. § 1252 because the District Court there held an Act of Congress unconstitutional. In Norton the ruling of the three-judge District Court was in favor of constitutionality, and therefore jurisdiction depends on 28 U.S.C. § 1253.

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If there is thought to be substance to my view, I think jurisdiction ought to be postponed in the case, rather than simply noted.

Sincerely,

Wm.