

The Burger Court Opinion Writing Database

Liberty Mutual Insurance Co. v. Wetzel
424 U.S. 737 (1976)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



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M

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

CHAMBERS OF
THE CHIEF JUSTICE

January 28, 1976

Re: 74-1245 - Liberty Mutual Ins. Co. v. Wetzel

Dear Bill:

Your recollection is entirely correct. As to the above we vacated the judgment as unappealable. Maybe they will try again and we will have the issue before a full Court.

Regards,

NRB

Mr. Justice Rehnquist

Copies to the Conference

P. S. -- Will you draft a per curiam or whatever you think necessary on the non-appealability?

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

CHAMBERS OF
THE CHIEF JUSTICE

March 18, 1976

Re: 74-1245 - Liberty Mutual Ins. Co. v. Wetzel

Dear Bill:

I join your March 11 circulation.

Regards,

WEB

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 9, 1976

RE: No. 74-1245 Liberty Mutual Insurance Co. v. Wetzel

Dear Bill:

You confirmed in our telephone talk that if the District Court had granted injunctive relief the order would have been appealable under Sec. 1292(a)(1) even though the Court had not ruled on respondents' other requests for relief. May I suggest that it might be helpful if this were made clear (perhaps as a sentence introducing the first full paragraph on page 6, or as a new sentence preceding the next to the last sentence in the third line from the bottom of that paragraph) reading something like the following:

If the District Court had granted injunctive relief, but not ruled on respondents' other requests for relief, this order would have been appealable under Sec. 1292(a)(1); but, as noted above, the court did not issue an injunction.

Sincerely,



Mr. Justice Rehnquist

✓

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 9, 1976

RE: No. 74-1245 Liberty Mutual Insurance Co. v. Wetzel

Dear Bill:

I agree with the Per Curiam you have prepared in the
above.

Sincerely,

Bill

Mr. Justice Rehnquist

cc: The Conference

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

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CHAMBERS OF
JUSTICE POTTER STEWART

March 4, 1976

No. 74-1245, Liberty Mutual Insurance Co.
v. Wetzel

Dear Bill,

I am glad to join your proposed
Per Curiam and see no reason why it
should not be a signed opinion.

Sincerely yours,

P.S.

✓

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 4, 1976

Re: No. 74-1245 - Liberty Mutual Insurance Co. v.
Wetzel

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Rehnquist

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 10, 1976

No. 74-1245 -- Liberty Mutual Insurance Company v.
Sandra Wetzel

Dear Bill:

Please join me.

Sincerely,

T. M.
T. M.

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 3, 1976

Re: No. 74-1245 - Liberty Mutual Ins. Co.
v. Wetzel

Dear Bill:

Will you please show at the end of your proposed
per curiam that I took no part in the consideration or deci-
sion of this case.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 5, 1976

No. 74-1245 Liberty Mutual v. Wetzel

Dear Bill:

Please join me in your Per Curiam opinion, which
I would be happy to see as a signed opinion.

Sincerely,

Lewis

Mr. Justice Rehnquist

lfp/ss

cc: The Conference

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

Re: Mr. Justice [unclear]

MAR 3 1976

Case No. [unclear]

Re: [unclear]

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 74-1245

Liberty Mutual Insurance Company, Petitioner
v.
Sandra Wetzel et al. } On Writ of Certiorari to the
United States Court of Appeals for the Third Circuit.

[March —, 1976]

PER CURIAM.

Respondents filed a complaint in the United States District Court for the Western District of Pennsylvania in which they asserted that petitioner's employee insurance benefits and maternity leave regulations discriminated against women in violation of Title VII of the Civil Rights Act of 1964, 42 U. S. C. § 2000e *et seq.* The District Court ruled in favor of respondents on the issue of petitioner's liability under that Act, and petitioner appealed to the Court of Appeals for the Third Circuit. That court held that it had jurisdiction of petitioner's appeal under 28 U. S. C. § 1291, and proceeded to affirm on the merits the judgment of the District Court. We granted certiorari, 421 U. S. 987 (1975), and heard argument on the merits. Though neither party has questioned the jurisdiction of the Court of Appeals to entertain the appeal, we are obligated to do so on our own motion if a question thereto exists. *Mansfield, Coldwater & Lake Michigan Ry. v. Swan*, 111 U. S. 379 (1884). Because we conclude that the District Court's order was not appealable to the Court of Appeals, we vacate the judgment of the Court of Appeals with instructions to dismiss petitioner's appeal from the order of the District Court.

To: The Chief Justice
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Black
 Mr. Justice Clark
 Mr. Justice Harlan
 Mr. Justice Douglas

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Transcribed

Received

MAR 11 1976

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 74-1245

Liberty Mutual Insurance Company, Petitioner, <i>v.</i> Sandra Wetzel et al.	On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.
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[March —, 1976]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Respondents filed a complaint in the United States District Court for the Western District of Pennsylvania in which they asserted that petitioner's employee insurance benefits and maternity leave regulations discriminated against women in violation of Title VII of the Civil Rights Act of 1964, 42 U. S. C. § 2000e *et seq.* The District Court ruled in favor of respondents on the issue of petitioner's liability under that Act, and petitioner appealed to the Court of Appeals for the Third Circuit. That court held that it had jurisdiction of petitioner's appeal under 28 U. S. C. § 1291, and proceeded to affirm on the merits the judgment of the District Court. We granted certiorari, 421 U. S. 987 (1975), and heard argument on the merits. Though neither party has questioned the jurisdiction of the Court of Appeals to entertain the appeal, we are obligated to do so on our own motion if a question thereto exists. *Mansfield, Coldwater & Lake Michigan Ry. v. Swan*, 111 U. S. 379 (1884). Because we conclude that the District Court's order was not appealable to the Court of Appeals, we vacate the judgment of the Court of Appeals with instructions to dismiss petitioner's appeal from the order of the District Court.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 31, 1976

MEMORANDUM TO THE CONFERENCE

Re: Cases held for Liberty Mutual Ins. Co. v. Wetzel,
No. 74-1245

There are two cases being held for Wetzel. Nashville Gas Co. v. Satty, No. 75-536, presents the issue of whether CA 6 was correct in ruling that petitioner's disability plan violates Title VII because it fails to include maternity as one of the conditions for which employees may utilize accumulated sick leave days. Lake Oswego School Dist. No. 7 v. Hutchison, No. 75-568, involves a similar challenge to a decision of CA 9 finding invalid certain portions of the sick leave plan of an Oregon School District.

Because Wetzel did not reach the merits of the Title VII claim, our holding sheds little light upon the resolution of either Nashville Gas or Lake Oswego School Dist. These cases are therefore probably more appropriately held for Wetzel's companion Title VII cases, General Electric Co. v. Gilbert, No. 74-1589, and Gilbert v. General Electric Co., No. 74-1590. Indeed, Lake Oswego is already being held for those cases as well as for Wetzel.

In reexamining the moving papers in Nashville Gas Co., however, I discovered that there is nothing which clearly indicates that the District Court entered a final judgment in that case so as to support the Sixth Circuit's jurisdiction over the Gas Company's appeal. In its memorandum opinion the District Court specified the relief to which it concluded the plaintiff was entitled, and it provided that counsel for plaintiff was to submit a proposed order

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embodying that relief. The petitioner has not submitted any reproduction of this proposed judgment order, however, and it is therefore impossible to ascertain with certainty whether the District Court's decision was appealable to the Court of Appeals. In order that this determination may be attempted when the petition comes up for disposition with the General Electric cases, I have called for the record in No. 75-536.

I will vote to hold both cases for General Electric.

Sincerely,

Wm

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 4, 1976

Re: No. 74-1245 - Liberty Mutual Insurance
Company v. Wetzel, et al.

Dear Bill:

Please join me.

Respectfully,

JS

Mr. Justice Rehnquist

Copies to the Conference