The Burger Court Opinion Writing Database

Mathews v. Eldridge

424 U.S. 319 (1976)

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

October 30, 1975

Re: 74-204 - Mathews v. Eldridge

MEMORANDUM TO THE CONFERENCE:

I suggest we discuss the above when we complete our consideration of the Conference List tomorrow.

Regards,

WEB

WB

HA

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

CHAMBERS OF
THE CHIEF JUSTICE

November 6, 1975

Re: 74-204 - Mathews v. Eldridge

MEMORANDUM TO THE CONFERENCE:

Upon completion of our discussion of this week's argued cases we will once again take up the above.

Regards,

WEB

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

CHAMBERS OF
THE CHIEF JUSTICE

February 19, 1976

Re: 74-204 - Mathews v. Eldridge

Dear Lewis:

I join your proposed opinion in the above.

Regards,

WEB

Mr. Justice Powell

Copies to 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 Rehnquist

From: Douglas, J.

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 74-204

F. David Mathews, Secretary of Health, Education, and Welfare, Petitioner, v. George H. Eldridge. | On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[November —, 1975]

Memorandum from MR. JUSTICE DOUGLAS to the Conference.

At the outset of this case we are faced with a challenge to the District Court's jurisdiction. The Secretary contends that our decision last Term in *Weinberger* v. *Salfi*, 422 U. S. — (1975), bars the District Court from entertaining respondent's action. *Salfi* construed 42 U. S. C. § 405 (h) [1] as precluding federal question jurisdiction over a suit challenging the duration-of-relationship requirements of 42 U. S. C. §§ 416 (c)(5) and (e)(2). We held that the only avenue to judicial review of denials of claimed benefits was through 42 U. S. C. § 405 (g),[2] which requires as a jurisdictional pre-

[1] Title 42 U. S. C. § 405 (h) provides in full:

"(h) The findings and decisions of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Secretary or any officer or employee thereof shall be brought under [§§ 1331 *et seq.*] of Title 28 to recover on any claim arising under [Title II of the Social Security Act]."

[2] Title 42 U. S. C. § 405 (g) provides in full:

"(g) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a

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

From: Mr. Justice Brennan

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 74-204

F. David Mathews, Secretary of Health, Education, and Welfare, Petitioner, *v.* George H. Eldridge.

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

[January —, 1976]

MR. JUSTICE BRENNAN, dissenting.

For the reasons stated in my dissenting opinion in *Richardson* v. *Wright,* 405 U. S. 208, 212 (1972), I agree with the District Court and the Court of Appeals that, prior to termination of benefits, Eldridge must be afforded an evidentiary hearing of the type required for welfare beneficiaries under Title IV of the Social Security Act, 42 U. S. C. §601 *et seq.* See *Goldberg* v. *Kelly,* 397 U. S. 254 (1970). I would add that the Court's consideration that a discontinuance of disability benefits may cause the recipient to suffer only a limited deprivation is no argument. It is speculative. Moreover, the very legislative determination to provide disability benfits, without any prerequisite determination of need in fact, presumes a need by the recipient which is not this Court's to denigrate. Indeed, in the present case, it is indicated that because disability benefits were terminated there was a foreclosure upon the Eldridge home and the family's furniture was repossessed, forcing Eldridge, his wife and children to sleep in one bed. Tr. of Oral Arg., at 39, 47–48. Finally, it is also no argument that a worker, who has been placed in the untenable position of having been denied disability benefits, may still seek other forms of public assistance.

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 9, 1976

Re: No. 74-204, Mathews v. Eldridge

Dear Lewis,

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

Sincerely yours,

P.S.

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 13, 1976

Re: No. 74-204 - Mathews v. Eldridge

Dear Lewis:

Please join me.

Sincerely,

Mr. Justice Powell

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 26, 1976

Re: No. 74-204 -- F. David Mathews v. George H. Eldridge

Dear Bill:

Please join me in your dissent.

Sincerely,

T.M.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 14, 1976

Re: No. 74-204 - Mathews v. Eldridge

Dear Lewis:

Please join me.

Sincerely,

Harry

Mr. Justice Powell

cc: The Conference

December 11, 1975

No. 74-204 Eldridge v. Mathews

Dear Bill:

I deliver to you herewith a first draft, by my clerk, Greg Palm, of Part II of an opinion in the above case.

Part II deals, as you will see, with the jurisdictional issue that so troubled us and our brethren.

As you are my guiding mentor on this subject, and particularly as to how this opinion should be written without diluting the precedential effect of Salfi, I wonder if you would mind reviewing the draft and giving me your comments.

Obviously, the draft is too long. I have made no attempt yet to edit or revise it, or to have Greg condense it. Before undertaking these tasks, it would be most helpful particularly to know whether you agree that the analysis is sound.

Sincerely,

Mr. Justice Rehnquist

lfp/ss

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

From: Mr. Justice Powell

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 74-204

F. David Mathews, Secretary of Health, Education, and Welfare, Petitioner, v. George H. Eldridge. | On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[January —, 1976]

MR. JUSTICE POWELL delivered the opinion of the Court.

The issue in this case is whether the Due Process Clause of the Fifth Amendment requires that prior to the termination of Social Security disability benefit payments the recipient be afforded an opportunity for an evidentiary hearing.

I

Cash benefits are provided to workers during periods in which they are completely disabled under the disability insurance benefits program created by the 1956 amendments to Title II of the Social Security Act. 70 Stat. 815, 42 U. S. C. § 423.[1] Respondent Eldridge was

[1] The program is financed by revenues derived from employee and employer payroll taxes. 26 U. S. C. §§ 3101 (a), 3111 (a); 42 U. S. C. § 401 (b). It provides monthly benefits to disabled persons who have worked sufficiently long to have an insured status, *id.*, § 423 (c)(1)(A), and who have had substantial work experience in a specified interval directly preceding the onset of disability. *Id.*, § 423 (c)(1)(B). Benefits also are provided to the worker's dependents under specified circumstances. *Id.*, §§ 402 (b)–(d). When the recipient reaches age 65 his disability benefits are automatically converted to retirement benefits. *Id.*, §§ 416 (2)(D),

Stylistic Changes Throughout.

13, 26

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

From: Mr. Justice Powell

Circulated: _____

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 74-204

F. David Mathews, Secretary of Health, Education, and Welfare, Petitioner, v. George H. Eldridge. | On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[January —, 1976]

MR. JUSTICE POWELL delivered the opinion of the Court.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 3, 1976

Cases held for No. 74-204, Mathews v. Eldridge

MEMORANDUM TO THE CONFERENCE:

Two cases currently are being held for Eldridge and one for Eldridge and Norton v. Mathews, No. 74-6212.

1. No. 74-205, Mathews v. Williams

This case presents the same issue as Eldridge. The state agency notified respondent that since her disability had ceased her social security benefits would be terminated. Respondent demanded a pre-termination evidentiary hearing, and she brought this action when none was granted. DC and CA5 held, relying on the DC decision in Eldridge, that an evidentiary hearing is required prior to termination of benefits. I will vote to grant, vacate and remand in light of Eldridge.

2. No. 75-649 Mathews v. Mattern [held for Eldridge and Norton]

Respondent, a recipient of disabled widows' benefits under § 402(e)(1)(B)(ii) of the Social Security Act, was erroneously paid $1,063.80 by the Social Security Administration (SSA). There is a dispute whether the SSA notified her by telephone, prior to receipt of the payment, that she should return it. Several months later the SSA notified her by letter that future benefits would be reduced until the overpayment had been recouped. Respondent was further informed that she was entitled to contest the finding of overpayment or to request the Secretary to "waive" the overpayment if she was not at fault in receiving it and recoupment would cause her severe financial hardship or be unfair for some other reason. Petitioner requested reconsideration of the recoupment decision, and the SSA affirmed its

view that Sosna supports § 405(g) jurisdiction here. Although the Conference may want to remand to ascertain whether any such persons exist, I think it quite likely that they do. On the merits CA2's holding is consistent with Eldridge. Accordingly, I will vote to deny.

L.F.P., Jr.

ss

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

Ask Bell if answer of Sec. in DC could be viewed as waiver of Salfi requirement that

October 15, 1975

MEMORANDUM TO THE CONFERENCE

Re: No. 74-204 - Matthews v. Eldridge

During the conference discussion of this case last Friday, I made the observation when it came my turn that although on balance I disagreed with the views that had been expressed by Potter and Byron as to the effect of Salfi on the jurisdiction here, I thought them quite reasonable. At that time I was under the impression that there were two possible approaches to the case; but upon reviewing what we have here of the record, I now think there are three possible approaches, and that while either of two are consistent with Salfi, the third is not.

These three positions may summarized as follows:

(1) Because of the nature of the constitutional claim based on Goldberg v. Kelley, that claim may be brought in the District Court immediately upon the cutoff of benefits, without making any effort even to present that claim to the Secretary, despite § 405(h);

must present procedural claim to the Secretary first

(2) Because of the nature of the constitutional claim based on Goldberg v. Kelly, it may be separated from the claim on the merits for restoration of disability benefits, and once the procedural claim has been presented to the Secretary and rejected, an action may be brought in the District Court even though a final decision on benefits has not been rendered;

If position is adopted & the const. claim is separated from the merits of the disability claim to allow presentation to the Secretary, what happens to the claim on merits pending resolution of const. claim

(3) Because of the language of § 405(g) referring to final decisions of the Secretary, no action may be brought in the District Court under § 405(g), even on the procedural constitutional claim, until the Secretary has finally resolved the claimant's continued entitlement to benefits.

Although my misunderstanding may have arisen from lack of sufficient attentiveness to the Conference discussion, I don't think those who were in favor of upholding jurisdiction here, particularly Potter and Byron, differentiated between (1) and (2). In my opinion (2) would be quite a reasonable accommodation between our construction of the applicable jurisdictional statutes in Salfi and the necessity that a constitutional claim based on Goldberg v. Kelly be presented for judicial determination early in the dispute, but (1) would be a complete repudiation not only of Salfi but of the language that Congress used in conferring jurisdiction on the district courts.

Under Salfi, there cannot be any doubt, I think, that respondent's claim here was one "on any claim arising under [Title II of the Social Security Act]" as that term is used in 42 U.S.C. § 405(h) and was construed in Salfi at pages 4-5 and 8-9 of the slip opinion. At page 9, we said:

> "It would of course be fruitless to contend that appellees' claim is one which does not arise under the Constitution, since their constitutional arguments are critical to their complaint. But it is just as fruitless to argue that this action does not also arise under the Social Security Act. For not only

> is it Social Security benefits which appellees seek to recover, but it is the Social Security Act which provides both the standing and the substantive basis for the presentation of their constitutional contentions."

In his pleadings, Eldridge alleged that he had been receiving disability benefits pursuant to the Act, but that they had been stopped (appendix, pp. 1-2). He then prayed that the Secretary be commanded "to immediately transmit unto your undersigned plaintiff, his wife and infant children the disability benefits checks for the month of August, 1972 and all subsequent months thereafter until such time as your undersigned plaintiff is afforded a hearing under the alleged change of condition claim by the Department . . . ." (appendix, page 3).

Surely if Salfi's claim was one arising under the Act, so also is Eldridge's. This means that the only basis for jurisdiction in federal court is section 405(g) of Title 42, and that 28 U.S.C. § 1331 is unavailable. The former section, of course, permits judicial review "after any final decision of the Secretary", and Salfi was at pains to point out that constitutional claims could be considered on such review.

It could be argued that because of some of the language in section 405(g) judicial review of any sort is available only after a final determination by the Secretary on termination of disability payments. This would, of course, wholly frustrate maintenance of respondent's Goldberg v. Kelly claim, since that claim is one seeking restoration of benefits before any such determination. We read § 405(g) in a commonsense manner in Salfi, in order to avoid

requiring someone to go all the way up the administrative ladder to the Secretary when the government had not indicated such review was required by departmental regulations. Here I think we could equally well construe the language of § 405(g), particularly in light of its distinction between "findings" and "decisions" in its text, to mean that a constitutional claim such as respondent asserts here must be presented to the Secretary or his delegate, but that it may be separated from the claim on the merits in order to enable respondent to obtain judicial review of that aspect of the claim without waiting for a final determination of the entire proceeding. This would avoid any implication that Congress intended to preclude any practical opportunity of asserting a Goldberg v. Kelly type claim, and would still be faithful to the explicit language of 405(h).

If (2) above is adopted as the proper meaning of the statute, Eldridge is still allowed to make his procedural claim at a time when he may still benefit from it but must have alerted the Secretary or his delegate of the claim and given them some opportunity to respond to it. In addition, under § 405(g) he must bring his action in the District Court within sixty days after the Secretary has turned down his claim for a pre-termination hearing. It seems to me that this reading would serve to effect what I take to be one of the principal values of the third sentence of § 405(h), safeguarding the Social Security Trust Fund against unanticipated liabilities which the Secretary has had no chance to deal with administratively. If interpretation (1) is accepted by the Conference, it will open the door to potential massive claims against the fund. Eldridge can simply go into the District Court, allege that his payments have been cut off, and assert that he represents a class consisting of all others similarly situated. Under (1) this class is potentially almost limitless, and while a judgment in their favor might not produce a bonanza for the individual claimants, it surely would be one for their lawyers. Under (2), however, the limitations on actions found in § 405(g) would significantly circumscribe any potential class of beneficiaries. Eldridge could only bring his action on behalf of those persons who had not only asserted the Goldberg claim to the Secretary, but had

asserted it within sixty days of the filing of Eldridge's complaint in the District Court.

The third position, which would perhaps be slightly more faithful to the language of 405(g), would for practical purposes prevent the assertion of a Goldberg v. Kelly type of claim in Social Security litigation. I do not think the language should be read this way if such a reading can be avoided. See Johnson v. Robison, 415 U.S. 361 (1974). Thus my tentative conclusion is that if Potter and Byron were opting for a position along the lines of (2) above, I could certainly agree because of the constitutional implications, although I think it might entail some bending of the statutory language. If they were opting for position (1) above, I would regard it as a total repudiation of Salfi without any very good reason for it, and could not agree.

Sincerely,

WJM

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 12, 1976

Re: No. 74-204 -- Mathews v. Eldridge

Dear Lewis:

Please join me in your opinion for the Court.

Sincerely,

Mr. Justice Powell

cc: The Conference