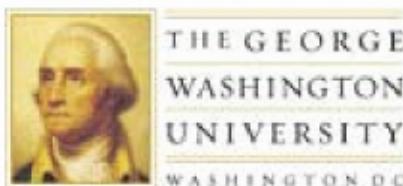


The Burger Court Opinion Writing Database

Mathews v. Weber

423 U.S. 261 (1976)

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



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

From: _____ Justice

Circulated: DEC 10 1975

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 74-850

F. David Mathews, Secretary of Health, Education, and Welfare, Petitioner,
v.
William G. Weber.

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

[December —, 1975]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

The question presented in this case is whether the Federal Magistrates Act of 1968, 28 U. S. C. § 636, permits a United States District Court to refer all Social Security benefit cases to United States Magistrates for preliminary review of the administrative record, oral argument, and preparation of a recommended decision as to whether the record contains substantial evidence to support the administrative determination—all subject to an independent decision, on the record, by the District Judge who may, in his discretion, hear the matter *de novo*.

(1)

Respondent Weber brought this action in the United States District Court for the Central District of California to challenge the final determination of the Secretary of Health, Education, and Welfare that he was not entitled to reimbursement under the Medicare provisions of the Social Security Act, 42 U. S. C. § 1395 *et seq.*, for medical payments he made on behalf of his wife. Such a suit for administrative review is authorized by § 205

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

CHAMBERS OF
THE CHIEF JUSTICE

December 30, 1975

Re: 74-850 - Mathews v. Weber

MEMORANDUM TO THE CONFERENCE:

Enclosed is revised draft with minor stylistic
changes, except footnote 5/, which is new.

Regards,



To: Mr. Justice BURGER

PP. 3, 8, 9, 10, 12

FILED

Circulated

Recirculated: DEC 30 1975

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 74-850

F. David Mathews, Secretary of Health, Education, and Welfare, Petitioner,
v.
William G. Weber,

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

[December —, 1975]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

The question presented in this case is whether the Federal Magistrates Act of 1968, 28 U. S. C. § 636, permits a United States District Court to refer all Social Security benefit cases to United States Magistrates for preliminary review of the administrative record, oral argument, and preparation of a recommended decision as to whether the record contains substantial evidence to support the administrative determination—all subject to an independent decision, on the record, by the District Judge who may, in his discretion, hear the matter *de novo*.

(1)

Respondent Weber brought this action in the United States District Court for the Central District of California to challenge the final determination of the Secretary of Health, Education, and Welfare that he was not entitled to reimbursement under the Medicare provisions of the Social Security Act, 42 U. S. C. § 1395 *et seq.*, for medical payments he made on behalf of his wife. Such a suit for administrative review is authorized by § 205

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

CHAMBERS OF
THE CHIEF JUSTICE

January 22, 1976

MEMORANDUM TO THE CONFERENCE

Re: No. 74-6568

Mauricio v. McAdams, heretofore held for No. 74-850,
Mathews v. Weber

Petitioner is a Texas prisoner who sued his warden pro se for damages under 42 U.S.C. § 1983, alleging that the warden had converted some of petitioner's personal property to his own use. The district court (Seals, S.D. Texas) referred the complaint to a magistrate acting as a special master under Rule 53, F.R.C.P., who held a full hearing and recommended that the complaint be dismissed. The district court accepted the recommendation. Petitioner then complained for the first time of the reference, and also of the district court's failure to appoint counsel. The court treated the motion as a Rule 60 motion for relief from judgment and denied it. CA 5 affirmed without opinion.

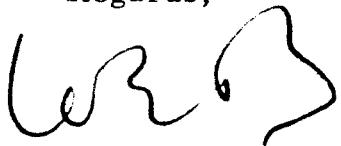
Petitioner argues here that: (1) the reference to a magistrate as special master violated the terms of Rule 53; (2) the reference violated § 636(b) of the Federal Magistrates Act; (3) due process required that his complaint be heard by an Article III judge. He also argues that the court should have appointed an attorney to represent him before hearing the suit.

In Mathews v. Weber, No. 74-850, decided January 14, 1976, we upheld a district court rule that required that all social security appeals brought under 42 U.S.C. § 405(g) be referred to a magistrate, for preparation of a recommended decision on the merits. Because we treated the case quite narrowly and because the magistrate could take no evidence under § 405(g), our decision there does not much inform this case.

Two of petitioner's arguments are clearly without merit. The part of § 636(b) on which petitioner relies limits the magistrate's authority in habeas corpus hearings; it does not speak directly to § 1983 suits. The appointment of counsel to represent petitioner was

within the discretion of the district court under 28 U.S.C. § 1915(d); while the papers suggest that the court may not have been aware of its power in this regard, the issue does not seem certworthy. Nor do the two remaining issues call in my view for the exercise of our certiorari powers, particularly since petitioner waited so long to raise them that the district court could treat them only under Rule 60, which contemplates relief only in rather extraordinary situations. I will therefore vote to deny certiorari.

Regards,

A handwritten signature consisting of the letters 'W' and 'B' joined together in a cursive style.

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

MEMORANDUM
M. J. BRENNAN, JR.

December 15, 1975

RE: No. 74-850 Matthews v. Heber

Dear Chief:

I agree.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

December 15, 1975

No. 74-850 - Mathews v. Weber

Dear Chief,

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

Sincerely yours,

P.S.

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 15, 1975

Re: No. 74-850 - Mathews v. Weber

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 16, 1975

Re: No. 74-850, F. David Mathews v. William G. Weber

Dear Chief:

Please join me.

Sincerely,


T. M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 15, 1975

Re: No. 74-850 - Mathews v. Weber

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

December 15, 1975

No. 74-850 Mathews v. Weber

Dear Chief:

Please join me.

Sincerely,

Lewis

The Chief Justice

1fp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

December 15, 1975

Re: No. 74-850 - Mathews v. Weber

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

Copies to the Conference