

The Burger Court Opinion Writing Database

Pearson v. Dodd

429 U.S. 396 (1977)

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

May 19, 1976

Re: 75-1318 - Pearson v. Dodd

Dear Byron:

Re your proposed letter to appellant,

I agree.

Regards,

WRB

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

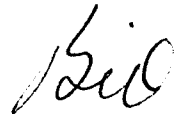
May 17, 1976

RE: No. 75-1318 Pearson v. Dodd

Dear Byron:

I agree with your memorandum of May 17 in the
above.

Sincerely,



Mr. Justice White

cc: The Conference

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

From: Mr. Justice Stewart

Circulated: MAY 10 1976

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

CECLE G. PEARSON *v.* W. P. DODD ET AL.

ON APPEAL FROM THE SUPREME COURT OF APPEALS OF
WEST VIRGINIA

No. 75-1318. Decided May —, 1976

MR. JUSTICE STEWART, dissenting.

Cecle G. Pearson failed to pay the 1961 county taxes assessed against her interest in the oil and gas rights on a 68-acre tract of land in West Virginia. In 1962, pursuant to West Virginia law, W. Va. Code § 11A-3, the county sold Pearson's interest in the State for the amount of the tax delinquency. State law does not require that any attempt be made personally to notify a delinquent taxpayer before such a sale, and Pearson received no notice.

A delinquent taxpayer is permitted to redeem his property interest anytime in the 18-month period following such a sale by paying to the State the amount of taxes and other charges due. *Id.*, § 11A-3-8. State law does not require that the taxpayer be notified of this right to redeem, however, and Mrs. Pearson received no notice of it.¹ At the end of the 18-month period any interest

¹ If a private party had purchased Pearson's interest at the 1962 sale, West Virginia law would have required that notice of the right of redemption be personally served upon

"(1) The person in whose name the real estate was returned delinquent and sold, or, in case of his death, his heir or devisee and his personal representative, if such there be; (2) any grantee of such person, or his heir or devisee and his personal representative, if such there be, if a conveyance of such real estate is recorded or filed for record in the office of the clerk; (3) any person having a lien upon such real estate disclosed by any paper recorded in the clerk's office; and (4) any other person having such an interest in

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
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MAY 11 1976

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

CECLE G. PEARSON *v.* W. P. DODD ET AL.

ON APPEAL FROM THE SUPREME COURT OF APPEALS OF
WEST VIRGINIA

No. 75-1318. Decided May —, 1976

MR. JUSTICE STEWART, dissenting.

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¹ If a private party had purchased Pearson's interest at the 1962 sale, West Virginia law would have required that notice of the right of redemption be personally served upon

"(1) The person in whose name the real estate was returned delinquent and sold, or, in case of his death, his heir or devisee and his personal representative, if such there be; (2) any grantee of such person, or his heir or devisee and his personal representative, if such there be, if a conveyance of such real estate is recorded or filed for record in the office of the clerk; (3) any person having a lien upon such real estate disclosed by any paper recorded in the clerk's office; and (4) any other person having such an interest in

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CHAMBERS OF
JUSTICE POTTER STEWART

May 17, 1976

75-1318 - Pearson v. Dodd

Dear Byron,

I agree with the suggestion contained in your memorandum of May 17, although it strikes me that the incompetent lawyer in this case may have no idea what we are talking about.

Sincerely yours,

P.S.
1.

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF
CE BYRON R. WHITE

May 17, 1976

MEMORANDUM TO THE CONFERENCE

Re: No. 75-1318 - Pearson v. Dodd

I suggest that Mike Rodak write the appellant along the following lines:

Appellant is requested to inform the Court at the earliest opportunity, but no later than June 1, 1976, whether the validity of the 1962 sale to the State of the subject property was challenged in the state courts under the Due Process Clause of the United States Constitution and, if so, to "specify the stage in the proceedings in the court of first instance, and in the appellate court, at which, and the manner in which, the federal questions sought to be reviewed were raised; the method of raising them (e.g., by a pleading, by request to charge and exceptions, by assignment of error); and the way in which they were passed upon by the court; with such pertinent quotations of specific portions of the record, or summary thereof, with specific reference to the places in the record where the matter appears (e.g., ruling on exception, portion of the court's charge and exception thereto, assignment of error) as will support the assertion that the rulings of the court were of a nature to bring the case within the statutory provision believed to confer jurisdiction on this court." See Rule 15-1-(d). Respondents may reply prior to June 10, 1976.


B.R.W.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 18, 1976

Re: No. 75-1318 - Pearson v. Dodd

Dear Byron:

I agree with your proposed memorandum of May 17th
in this case.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", with a horizontal line underneath it.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 17, 1976

Re: No. 75-1318, Pearson v. Dodd

Dear Byron,

I agree with your proposed memorandum of May 17th
in this case.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 17, 1976

Re: 75-1318 - Pearson v. Dodd

Dear Byron:

I agree with your memorandum of May 17 in the
above.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Jh' or 'John', written in a cursive style.

Mr. Justice White

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: Mr. Justice Stevens

Circulated: 5/19/76

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

CECLE G. PEARSON *v.* W. P. DODD ET AL.

ON APPEAL FROM THE SUPREME COURT OF APPEALS OF
WEST VIRGINIA

No. 75-1318. Decided May —, 1976

MR. JUSTICE STEVENS, dissenting.

As I understand the papers before us, there are three arguable defects in the procedure by which appellant's interest in real estate was forfeited:

(1) The sale of her interest to the state in 1962 was not preceded by any notice, either to her, to her husband who had been paying the taxes, or to her son who was the record owner of the property. As a result of that sale, her absolute right to redeem became a lesser, qualified right.

(2) The 1966 sale of the State's interest (in property in which she retained a sufficient interest to petition for redemption privileges) was not preceded by any attempt to give personal notice to either the record owner, the taxpayer, or the actual owner.

(3) The 1966 notice by publication misdescribed the property.

Since this combination of facts was not present in *Botens v. Aronauer*, 32 N. Y. 2d 243, 298 N. E. 2d (1973), dismissed for want of a substantial federal question, 414 U. S. 1059, this Court's summary disposition of that appeal is not controlling here. And since adequate notice is the heart of the procedural fairness required by the Fourteenth Amendment before a State may deprive a person of his property, I agree with MR. JUSTICE STEWART that this appeal should be heard.

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 19, 1976

Re: 75-1318 - Pearson v. Dodd

MEMORANDUM TO THE CONFERENCE

Inadvertently I circulated a dissent which I had intended to file if the order had come down as a result of our last Conference. Please disregard.

Respectfully,

A handwritten signature in dark ink, appearing to be 'JPS', written in a cursive style.