

The Burger Court Opinion Writing Database

Bryan v. Itasca County

426 U.S. 373 (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

June 7, 1976

Re: 75-5027 - Bryan v. Itasca County, Minnesota

Dear Bill:

Please join me in your circulation of June 1.

Regards,

WRB

Mr. Justice Brennan

Copies to the Conference

WJB
 Filed for me
 1/11/76

RUSSELL BRYAN, petitioner v. ITASCA COUNTY, MINNESOTA,
 respondent

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
 COURT OF MINNESOTA

No. 75-5027

Decided June ___, 1976

MR. JUSTICE BRENNAN delivered the opinion of the Court.

This case presents the question reserved in McClanahan v. Arizona State Tax Commission, 411 U.S. 164, 178 n. 18 (1973): whether the grant of civil jurisdiction to the States conferred by § 4 of Public Law 280, 72 Stat 590, 28 U.S.C. § 1360, is a Congressional grant of power to the States to tax reservation Indians except insofar as taxation is expressly excluded by the terms of the statute.

Petitioner Russell Bryan, an enrolled member of the Minnesota Chippewa Tribe, ^{1/} resides in a mobile home on land held in trust for the Chippewa Tribe on the Leech Lake Reservation in Minnesota. In June of 1972, petitioner received notices from the auditor of respondent Itasca County, Minnesota that he had been assessed personal property tax liability on the mobile home totaling \$147.95. Thereafter, in September, 1972, petitioner brought this suit in the Minnesota District Court seeking a declaratory judgment that the state and county were without authority to levy such a tax on personal property of a reservation Indian on the reservation and that imposition of such a tax was contrary to federal law. The Minnesota District Court rejected the contention and entered judgment for

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

Circulated: _____

Recirculated: 6/8/76

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-5027

Russell Bryan, etc., Petitioner, v. Itasca County, Minnesota.	}	On Writ of Certiorari to the Supreme Court of Min- nesota.
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[June —, 1976]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

This case presents the question reserved in *McClanahan v. Arizona State Tax Comm'n*, 411 U. S. 164, 178 n. 18 (1973): whether the grant of civil jurisdiction to the States conferred by § 4 of Pub. L. 280, 72 Stat. 590, 28 U. S. C. § 1360, is a congressional grant of power to the States to tax reservation Indians except insofar as taxation is expressly excluded by the terms of the statute.

Petitioner Russell Bryan, an enrolled member of the Minnesota Chippewa Tribe,¹ resides in a mobile home on land held in trust by the United States for the Chippewa Tribe on the Leech Lake Reservation in Minnesota. In June of 1972, petitioner received notices from the auditor of respondent Itasca County, Minn., that he had been assessed personal property tax liability on the mobile home totaling \$147.95. Thereafter, in September 1972, petitioner brought this suit in the Minnesota District Court seeking a declaratory judgment that the State

¹ The Minnesota Chippewa Tribe is a federally recognized tribe with a constitution approved by the Secretary of the Interior. Memorandum for the United States as *Amicus Curiae*, at 2 n. 2. Its reservation was established by the Treaty of February 22, 1855, 10 Stat. 1165.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 21, 1976

MEMORANDUM TO THE CONFERENCE

RE: Cases held for No. 75-5027 Bryan v. Itasca County

No. 75-169 Omaha Tribe of Indians v. Peters

In this case the Eighth Circuit Court of Appeals upheld an income tax levied by the State of Nebraska on the income of reservation Indians earned on the reservation. Nebraska is a Public Law 280 State, and the Eighth Circuit held that Public Law 208 is a congressional grant of power to tax reservation Indians by construing that statute in a manner identical to that done by the Minnesota Supreme Court in Bryan. Indeed, the authority relied upon by the State Supreme Court in Bryan was the District Court opinion in this case, which opinion the Eighth Circuit basically adopted. This case is directly controlled by our decision in Bryan, and I shall vote to grant, vacate, and remand for reconsideration in light of Bryan.

No. 75-1477 Donald C. Little, et al. v. Oklahoma, et al.

This case is completely unrelated to Bryan as it does not involve state taxation of reservation Indians under Public Law 280; rather, it involves the imposition of State estate taxes upon an Osage Indian's interest in certain mineral rights in real property ("headrights"), which interest is subject to a restraint on alienation and is held in trust by the United States. The question of the power of the State of Oklahoma to levy estate taxes upon this interest is directly controlled by this Court's decision in West v. Oklahoma Tax Commission, 344 U.S. 717 (1948).

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 2, 1976

Re: No. 75-5027, Bryan v. Itasca County, Minnesota

Dear Bill,

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

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 4, 1976

Re: No. 75-5027 - Bryan v. Itasca County, Minn.

Dear Bill:

I was the other way in this case but I
shall acquiesce with a graveyard dissent.

Sincerely,



Mr. Justice Brennan

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 4, 1976

Re: No. 75-5027 -- Russell Bryan v. Itasca County, Minnesota

Dear Bill:

Please join me.

Sincerely,



T. M.

Mr. Justice Brennan

cc: The Conference

June 4, 1976

Re: No. 75-5027 - Bryan v. Itasca County

Dear Bill:

This is a very unimportant, and somewhat personal, suggestion. I know all "these guys" on the Minnesota Court. For some reason the sentence near the middle of page 9 beginning with the word "Accordingly" struck me as a little blunt in view of the admittedly sparse legislative history. Do you think it could be softened, as by inserting the words "we feel that" before "the construction"? Undoubtedly, I am being over-sensitive, but we are taking a position opposite to that espoused, not only by the Minnesota Court, but by the Eighth Circuit in the Nebraska tax case, and, if we can, I prefer to take a sympathetic approach this time.

Sincerely,

HAB

Mr. Justice Brennan

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 4, 1976

Re: No. 75-5027 - Bryan v. Itasca County

Dear Bill:

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", with a long horizontal stroke extending to the right.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 4, 1976

No. 75-5027 Bryan v. Itasca County

Dear Bill:

I am following my Brother White's capitulation to your
persuasive powers!

Please join me also.

Sincerely,

Lewis

Mr. Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 7, 1976

Re: No. 75-5027 - Bryan v. Itasca County, Minnesota

Dear Bill:

Please join me in your circulation of June 1st.

Sincerely,



Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 2, 1976

Re: 75-5027 - Bryan v. Itasca County, Minnesota

Dear Bill:

Please join me.

On page 2, line 6, in place of "codified"
would you consider "clarified" or "described," or perhaps
some other verb?

Sincerely,



Mr. Justice Brennan

Copies to the Conference