

The Burger Court Opinion Writing Database

Teamsters v. United States

431 U.S. 324 (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 25, 1977

Re: (75-636 - International Brotherhood of Teamsters
v. United States
(75-672 - T.I.M.E.-D.C., Inc. v. United States

Dear Potter:

I join.

Regards,

WB

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 4, 1977

RE: No. 75-636, International Brotherhood of Teamsters v. United States, and No. 75-672, T.I.M.E.-D.C. v. United States

Dear Thurgood:

Since you have already agreed to do the dissent in John's United Air Lines v. Evans, No. 76-333, would you care to try a dissent also in Potter's Teamsters v. United States and T.I.M.E.-D.C. v. United States, Nos. 75-636 and 75-672? Frankly, I am not sure myself I will dissent from Potter, but if you decide to try a dissent I will await your circulation.

Sincerely,



Mr. Justice Marshall

cc: Mr. Justice Blackmun

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 25, 1977

RE: Nos. 75-636 and 672 - International Brotherhood of
Teamsters & T.I.M.E., Inc. v. United States, et al.

Dear Thurgood:

Please join me in your concurring in part and dissenting in part opinion in the above.

Sincerely,

Brennan

Mr. Justice Marshall

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

1st DRAFT

From: Mr. Justice Stewart

SUPREME COURT OF THE UNITED STATES

Circulated: MAY 2 1977

Nos. 75-636 AND 75-672

Recirculated: _____

International Brotherhood of Teamsters, Petitioner, 75-636 <i>v.</i> United States et al.	On Writs of Certiorari to the United States Court of Ap- peals for the Fifth Circuit.
T. I. M. E.-D. C., Inc., Petitioner, 75-672 <i>v.</i> United States et al.	

[April —, 1977]

MR. JUSTICE STEWART delivered the opinion of the Court.

These cases bring here several important questions under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et seq.* (1970 ed. and Supp. V). The issues grow out of alleged unlawful employment practices engaged in by an employer and a union. The employer is a common carrier of motor freight with nationwide operations, and the union represents a large group of its employees. The District Court and the Court of Appeals held that the employer had violated Title VII by engaging in a pattern and practice of employment discrimination against Negroes and Spanish-surnamed Americans, and that the union had violated the Act by agreeing with the employer to create and maintain a seniority system that perpetuated the effects of past racial and ethnic discrimination. In addition to the basic questions presented by these two rulings, other subsidiary issues must be resolved if violations of Title VII occurred—issues concerning the nature of the relief to which aggrieved individuals may be entitled.

*Style changes throughout
Footnotes renumbered after #31*

pp 8, 12, 14, 16, 21, 22, 35,
36, 41, 42, 45, 47

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Black
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stewart

From: Mr. Justice Stewart

Circulated:

Recirculated: MAY 9, 1977

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 75-636 AND 75-672

International Brotherhood of
Teamsters, Petitioner,
75-636 *v.*
 United States et al.
T. I. M. E.-D. C., Inc.,
Petitioner,
75-672 *v.*
 United States et al.

On Writs of Certiorari to the
United States Court of Appeals
for the Fifth Circuit.

[May —, 1977]

MR. JUSTICE STEWART delivered the opinion of the Court.

These cases bring here several important questions under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et seq.* (1970 ed. and Supp. V). The issues grow out of alleged unlawful employment practices engaged in by an employer and a union. The employer is a common carrier of motor freight with nationwide operations, and the union represents a large group of its employees. The District Court and the Court of Appeals held that the employer had violated Title VII by engaging in a pattern and practice of employment discrimination against Negroes and Spanish-surnamed Americans, and that the union had violated the Act by agreeing with the employer to create and maintain a seniority system that perpetuated the effects of past racial and ethnic discrimination. In addition to the basic questions presented by these two rulings, other subsidiary issues must be resolved if violations of Title VII occurred—issues concerning the nature of the relief to which aggrieved individuals may be entitled.

stylistic changes, +
pp. 21, 22, 27, 37, 49
Footnotes after p. 39 renumbered

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: _____

Re-circulated: MAY 13 1977

SUPREME COURT OF THE UNITED STATES

Nos. 75-636 AND 75-672

International Brotherhood of Teamsters, Petitioner, 75-636 v. United States et al. T. I. M. E.-D. C., Inc., Petitioner, 75-672 v. United States et al.	On Writs of Certiorari to the United States Court of Ap- peals for the Fifth Circuit.
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[May —, 1977]

MR. JUSTICE STEWART delivered the opinion of the Court. This litigation brings here several important questions under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et seq.* (1970 ed. and Supp. V). The issues grow out of alleged unlawful employment practices engaged in by an employer and a union. The employer is a common carrier of motor freight with nationwide operations, and the union represents a large group of its employees. The District Court and the Court of Appeals held that the employer had violated Title VII by engaging in a pattern and practice of employment discrimination against Negroes and Spanish-surnamed Americans, and that the union had violated the Act by agreeing with the employer to create and maintain a seniority system that perpetuated the effects of past racial and ethnic discrimination. In addition to the basic questions presented by these two rulings, other subsidiary issues must be resolved if violations of Title VII occurred—issues concerning the nature of the relief to which aggrieved individuals may be entitled.

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 31, 1977

MEMORANDUM TO THE CONFERENCE

Re: Cases held for 75-636, International Brotherhood of Teamsters v. United States (decided together with 75-672, T. I. M. E. -D. C. v. United States) and/or 75-718, East Texas Motor Freight v. Rodriguez (decided together with 75-651, Teamsters Local Union 657 v. Rodriguez, and 75-715, Southern Conference of Teamsters v. Rodriguez)

(1) 75-220) Utility Workers Local 223 v. EEOC
75-221) Electrical Workers Local 17 v. EEOC
75-239) Stamps v. Detroit Edison Co.
75-393) Detroit Edison Co. v. EEOC

These petitions involve a pattern or practice suit and a private class action against the Detroit Edison Company and two local unions; the two actions were consolidated in the trial court. The trial court found that the company had engaged in intentional discrimination against Negro employees in its testing, hiring, promotion, and transfer policies. The court also found that the unions had violated Title VII, § 1981, and the National Labor Relations Act in agreeing to a seniority system that perpetuated the effects of past discrimination, in failing to pursue complaints of discrimination by Negro members, and in otherwise treating Negro members in a discriminatory manner. The court ordered seniority and back pay relief, future hiring in a manner to meet specified racial goals, and the payment of punitive damages by the company and Local 223. The Court of Appeals for the Sixth Circuit affirmed the findings of violations and for the most part approved the types of remedies

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 21, 1977

MEMORANDUM TO THE CONFERENCE

Re: Case held for decision in No. 75-636, International Brotherhood of Teamsters v. United States, and No. 76-255, Hazelwood School District v. United States, No. 76-1209, General Motors Corp. v. Stewart

This is a private class action in which Negro workers at a General Motors (GM) plant in Illinois claimed that GM had violated Title VII with respect to its promotion of minority employees to hourly clerk and salaried positions. The District Court held for the plaintiffs, finding that they had made out a *prima facie* case by proving that 25% of the workforce at the plant, but none of the 27 hourly clerks, were Negroes, and that only 2 out of 97 salaried jobs were held by Negroes before legal pressure was applied.

The Court of Appeals for the Seventh Circuit affirmed. Agreeing with the District Court, it held that the employer's attempted rebuttal was insufficient. As it viewed the evidence, seniority had not been the critical or even an important factor in promoting persons to hourly clerk jobs, and GM's "highly subjective and loosely structured" promotion system for salaried employees had a discriminatory impact and was not shown to be "job-related," even if intended only to recognize merit. With respect to back pay relief, the Court of Appeals declared that it was impossible to determine which minority workers would have been promoted to salaried positions absent discrimination. It therefore approved a classwide back pay award, instructing the District Court to calculate how much back pay the class had lost (by comparing the earnings history of the class to a sample group of similar whites) and then to divide that amount among all class members.

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 10, 1977

Re: Nos. 75-636 & 75-672 - International
Brotherhood of Teamsters v. United States

Dear Potter:

Although I may want to chat with you about
one or two things, I join your excellent opinion
in this case.

Sincerely,



Mr. Justice Stewart

Copies to Conference

MAY 24 1977

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 75-636 AND 75-672

International Brotherhood of Teamsters, Petitioner, 75-636 v. United States et al.	On Writs of Certiorari to the United States Court of Ap- peals for the Fifth Circuit,
T. I. M. E.-D. C., Inc., Petitioner, 75-672 v. United States et al.	

[May —, 1977]

MR. JUSTICE MARSHALL, concurring in part and dissenting
in part.

I agree with the Court that the United States proved that petitioner T. I. M. E.-D. C. was guilty of a pattern or practice of discriminating against blacks and Spanish-speaking Americans in hiring line drivers. I also agree that incumbent minority-group employees who show that they applied for a line-driving job or that they would have applied but for petitioner's unlawful acts are presumptively entitled to the full measure of relief set forth in our decision last Term in *Franks v. Bowman Transportation Co.*, 424 U. S. 747 (1976).¹ But I

¹ In stating that the task nonapplicants face in proving that they should be treated like applicants is "difficult," *ante*, at 37, I understand the Court simply to be addressing the facts of this case. There may well be cases in which the jobs that the nonapplicants seek are so clearly more desirable than their present jobs that proving that but for the employer's discrimination the nonapplicants previously would have applied will be anything but difficult.

Even in the present case, however, I believe the Court unnecessarily adds to the nonapplicants' burden. While I agree that proof of a nonapplicant's current willingness to accept a line-driver job is not

1, 16, 18

MAY 26 1977

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 75-636 AND 75-672

International Brotherhood of Teamsters, Petitioner, 75-636 <i>v.</i> United States et al.	On Writs of Certiorari to the United States Court of Ap- peals for the Fifth Circuit.
T. I. M. E.-D. C., Inc., Petitioner, 75-672 <i>v.</i> United States et al.	

[May —, 1977]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE BRENNAN joins, concurring in part and dissenting in part.

I agree with the Court that the United States proved that petitioner T. I. M. E.-D. C. was guilty of a pattern or practice of discriminating against blacks and Spanish-speaking Americans in hiring line drivers. I also agree that incumbent minority-group employees who show that they applied for a line-driving job or that they would have applied but for petitioner's unlawful acts are presumptively entitled to the full measure of relief set forth in our decision last Term in *Franks v. Bowman Transportation Co.*, 424 U. S. 747 (1976).¹ But I

¹ In stating that the task nonapplicants face in proving that they should be treated like applicants is "difficult," *ante*, at 37, I understand the Court simply to be addressing the facts of this case. There may well be cases in which the jobs that the nonapplicants seek are so clearly more desirable than their present jobs that proving that but for the employer's discrimination the nonapplicants previously would have applied will be anything but difficult.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

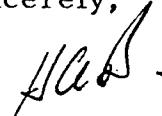
May 16, 1977

Re: No. 75-636 - Teamsters v. United States
No. 75-672 - T. I. M. E. - DC, Inc. v. United States

Dear Potter:

This was a large task for you and not an easy one. For the moment, I shall wait to see what is written in dissent.

Sincerely,



Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 25, 1977

Re: No. 75-636 - International Brotherhood of
Teamsters v. U. S.
No. 75-672 - T. I. M. E. - D. C., Inc. v. U. S.

Dear Potter:

Please join me.

Sincerely yours,

H. A. B.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 10, 1977

13

No. 75-636 International Brotherhood v.
United States
No. 75-672 T.I.M.E. v. United States

Dear Potter:

Please join me.

Sincerely,

Lewis

Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

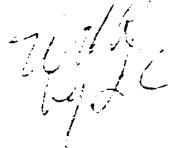
May 17, 1977

Re: Nos. 75-636 and 75-672 - Teamsters v. U.S.;
and T.I.M.E. v. United States

Dear Potter:

Please join me.

Sincerely,



Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 4, 1977

Re: 75-636 and 75-672 - International Brotherhood
of Teamsters v. United States, et al.

Dear Potter:

Please join me.

Respectfully,



Mr. Justice Stewart
Copies to the Conference