

The Burger Court Opinion Writing Database

American Broadcasting Cos. V. Writers Guild of America, West, Inc.

437 U.S. 411 (1978)

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 6, 1978

Dear Byron:

Re: 76-1121;53;62 ABC Inc. v. Writers Guild of America

I join.

Regards,

W B

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 14, 1978

RE: Nos. 76-1121, 53, etc. American Broadcasting Co.
et al. v. Writers Guild of America, etc.

Dear Potter:

Please join me.

Sincerely,

Bill

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 4, 1978

Nos. 76-1121, 76-1153, and 76-1162, American
Broadcasting Companies v. Writers Guild

Dear Byron,

In due course I shall circulate a dis-
senting opinion in these cases.

Sincerely yours,

P.S.

Mr. Justice White

Copies to the Conference

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

SUPREME COURT OF THE UNITED STATES Circulated: 14 JUN 1978

Recirculated: _____

Nos. 76-1121, 76-1153 and 76-1162

American Broadcasting Com-)
panies, Inc., et al.,)
Petitioners,)
76-1121 v.)
Writers Guild of American, West,)
Inc., et al.)

Association of Motion Picture)
and Television Producers,)
Inc., Petitioner,)
76-1153 v.)
Writers Guild of America, West,)
Inc., et al.)

National Labor Relations Board,)
Petitioner,)
76-1162 v.)
Writers Guild of America, West,)
Inc., et al.)

On Writs of Certiorari to
the United States Court
of Appeals for the Sec-
ond Circuit

[June--, 1978]

MR. JUSTICE STEWART, dissenting.

The Court holds today that a labor union locked in a direct economic confrontation with an employer is powerless to impose sanctions on its own members who choose to pledge their loyalty to the adversary. Nothing in § 8(b)(1)(B) or any other provision of the National Labor Relations Act permits such a radical alteration of the natural balance of power between labor and management. I therefore respectfully dissent.

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: _____

Recirculated: _____

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 76-1121, 76-1153 AND 76-1162

American Broadcasting Com-
panies, Inc., et al.,
Petitioners,
76-1121 v.
Writers Guild of America, West,
Inc., et al.

Association of Motion Picture
and Television Producers,
Inc., Petitioner,
76-1153 v.
Writers Guild of America, West,
Inc., et al.

National Labor Relations Board,
Petitioner,
76-1162 v.
Writers Guild of America, West,
Inc., et al.

On Writs of Certiorari to
the United States Court
of Appeals for the Sec-
ond Circuit.

[June —, 1978]

MR. JUSTICE STEWART, with whom MR. JUSTICE BRENNAN,
MR. JUSTICE MARSHALL, and MR. JUSTICE STEVENS join,
dissenting.

The Court holds today that a labor union locked in a direct economic confrontation with an employer is powerless to impose sanctions on its own members who choose to pledge their loyalty to the adversary. Nothing in § 8 (b) (1) (B) or any other provision of the National Labor Relations Act permits such a radical alteration of the natural balance of power between labor and management. I therefore respectfully dissent.

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

From: Mr. Justice White

Circulated: 5/1

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 76-1121, 76-1153 AND 76-1162

American Broadcasting Com-
 panies, Inc., et al.,
 Petitioners,
 76-1121 v.
 Writers Guild of America, West,
 Inc., et al.

Association of Motion Picture
 and Television Producers,
 Inc., Petitioner,
 76-1153 v.
 Writers Guild of America, West,
 Inc., et al.

National Labor Relations Board,
 Petitioner,
 76-1162 v.
 Writers Guild of America, West,
 Inc., et al.

On Writs of Certiorari to
 the United States Court
 of Appeals for the Sec-
 ond Circuit.

*Wait for
 answer PS*

[May —, 1978]

MR. JUSTICE WHITE delivered the opinion of the Court.

The issue in this case is whether a labor union commits an unfair labor practice when it disciplines a member who is a supervisory employee for crossing the union's picket line during a strike and performing his regular supervisory duties, which include the adjustment of grievances.

I

Respondent, Writer's Guild of America West, Inc., represents persons hired to perform writing functions for employers

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

15, 21, 24, 25

From: Mr. Justice White

Circulated: _____

Recirculated: 6/1

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 76-1121, 76-1153 AND 76-1162

American Broadcasting Com-
 panies, Inc., et al.,
 Petitioners,
 76-1121 v.
 Writers Guild of America, West,
 Inc., et al.

Association of Motion Picture
 and Television Producers,
 Inc., Petitioner,
 76-1153 v.
 Writers Guild of America, West,
 Inc., et al.

National Labor Relations Board,
 Petitioner,
 76-1162 v.
 Writers Guild of America, West,
 Inc., et al.

On Writs of Certiorari to
 the United States Court
 of Appeals for the Sec-
 ond Circuit.

*Wait for
 answer
 PS*

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Respondent, Writer's Guild of America West, Inc., represents persons hired to perform writing functions for employers

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 21, 1978

MEMORANDUM TO THE CONFERENCE

Re: Case Held for No. 76-1121 - American Broadcasting Co.
v. Writers Guild of America

No. 76-688 - Chicago Typographical Union No. 16 v. NLRB

After a breakdown in contract negotiations in August of 1973, Hammond Publishers, Inc., locked out its employees and the petitioner labor union retaliated with a strike. (The company denies that there ever was a lockout, and the administrative law judge refused to decide the issue. See petition at A8.) Two of the company's supervisors crossed the picket line in order to perform normal supervisory work, instructing and directing employees who chose not to honor the picket line, and new hires brought in during the strike. These supervisors performed some grievance adjustments during the strike, according to the Board's findings (petition at A 30), and also a "minimal" amount of bargaining unit work in connection with their normal supervisory functions (petition at A 31).

The labor union expelled the two supervisors and imposed a \$1,000 fine on each of them. The supervisors and their employer brought § 8(b)(1)(B) charges against the labor union, but the administrative law judge ruled in the union's favor. He found that the union had imposed discipline merely for crossing the picket line, it making "no difference . . . whether [the supervisors] were engaged in bargaining unit work or supervisory work." (Petition at A 21.)

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 15, 1978

Re: Nos. 76-1121, 76-1153, 76-1162 - American Broadcasting
Co. v. Writers Guild of America, West, Inc.

Dear Potter:

Please join me.

Sincerely,

J.M.
T.M.

Mr. Justice Stewart

cc: The Conference

M

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 8, 1978

Re: No. 76-1121 - ABC v. Writers Guild
No. 76-1153 - Assn. of Motion Picture and
TV Producers v. Writers Guild
No. 76-1162 - NLRB v. Writers Guild

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 5, 1978

No. 76-1121 American Broadcasting v. Writers Guild

Dear Byron:

Please join me.

Sincerely,

Lewis

Mr. Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 1, 1978

Re: Nos. 76-1121, 76-1153 and 76-1162 American Broad-
casting Co. v. Writers Guild

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 5, 1978

Re: 76-1121, 76-1153, and 76-1162 - American
Broadcasting Cos. v. Writers Guild

Dear Byron:

I shall wait for Potter's dissent in this case.

Respectfully,



Mr. Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

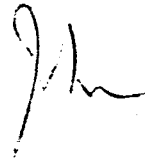
June 14, 1978

RE: 76-1121, 76-1153, 76-1162 - American Broadcasting, Inc.
v. Writers Guild of American, West, Inc.

Dear Potter:

Please join me in your dissenting opinion.

Respectfully,



Mr. Justice Stewart

Copies to the Conference