The Burger Court Opinion Writing Database

Malone v. White Motor Corp.

435 U.S. 497 (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

March 30, 1978

RE: 76-1184 - Malone v. White Motor Co.

Dear Potter and Lewis:

I join both your dissenting opinions in the above case.

Regards,

WEB

Mr. Justice Stewart

Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 20, 1978

RE: No. 76-1184 Malone v. White Motor Corporation

Dear Byron:

Please note at the foot of your opinion in the above that I took no part in the consideration or decision of this case.

Sincerely,

Bill

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

March 20, 1978

Re: No. 76-1184, Malone v. White Motor Corp.

Dear Byron,

I have today sent to the printer a very short dissent in this case.

Sincerely yours,

P.S.

Mr. Justice White

Copies to the Conference

1st DRAFT

22 MAR

SUPREME COURT OF THE UNITED STATES

No. 76-1184

E. I. Malone, Commissioner of Labor and Industry for Minnesota, Appellant, *v.* White Motor Corporation and White Farm Equipment Company.

On Appeal from the United States Court of Appeals for the Eighth Circuit.

[March —, 1978]

MR. JUSTICE STEWART, dissenting.

I substantially agree with the reasoning of the Court of Appeals for the Eighth Circuit in this case. *White Motor Corp.* v. *Malone*, 545 F. 2d 599. Accordingly, I would affirm the judgment before us.

The Court today seems to concede that Minnesota's statutory modification of the respondent's substantive obligations under its collective-bargaining agreement would be pre-empted by the federal labor laws if Congress had not somehow indicated that the State was free to impose this particular modification. *Ante*, at 15-16. The Court finds such an indication implicit in Congress' failure to undertake substantive regulation of pension plans when it enacted the so-called Disclosure Act of 1958. I do not believe, however, that inferences drawn largely from what Congress did *not* do in enacting the Disclosure Act are sufficient to override the fundamental policy of the national labor laws to leave undisturbed "the parties' solution of a problem which Congress has required them to negotiate in good faith toward solving . . . ." *Local 24, International Brotherhood of Teamsters* v. *Oliver*, 358 U. S. 283, 296.

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

2nd DRAFT

Circulated: _____

Recirculated: 31 MAR 1978

SUPREME COURT OF THE UNITED STATES

No. 76-1184

E. I. Malone, Commissioner of Labor and Industry for Minnesota, Appellant, *v.* White Motor Corporation and White Farm Equipment Company.

On Appeal from the United States Court of Appeals for the Eighth Circuit.

[March —, 1978]

MR. JUSTICE STEWART, with whom THE CHIEF JUSTICE joins, dissenting.

I substantially agree with the reasoning of the Court of Appeals for the Eighth Circuit in this case. *White Motor Corp.* v. *Malone,* 545 F. 2d 599. Accordingly, I would affirm the judgment before us.

The Court today seems to concede that Minnesota's statutory modification of the respondent's substantive obligations under its collective-bargaining agreement would be pre-empted by the federal labor laws if Congress had not somehow indicated that the State was free to impose this particular modification. *Ante,* at 15–16. The Court finds such an indication implicit in Congress' failure to undertake substantive regulation of pension plans when it enacted the so-called Disclosure Act of 1958. I do not believe, however, that inferences drawn largely from what Congress did *not* do in enacting the Disclosure Act are sufficient to override the fundamental policy of the national labor laws to leave undisturbed "the parties' solution of a problem which Congress has required them to negotiate in good faith toward solving . . . ." *Local 24, International Brotherhood of Teamsters* v. *Oliver,* 358 U. S. 283, 296.

BRW

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: 3-17-78

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76–1184

E. I. Malone, Commissioner of Labor and Industry for Minnesota, Appellant, *v.* White Motor Corporation and White Farm Equipment Company.

On Appeal from the United States Court of Appeals for the Eighth Circuit.

[March —, 1978]

MR. JUSTICE WHITE delivered the opinion of the Court.

A Minnesota statute, the Private Pension Benefit Protection Act, Minn. Stat. Ann. § 181B.01 *et seq.* (Cum. Supp. 1976) (Pension Act), passed in April 1974, established minimum standards for the funding and vesting of employee pensions. The question in this case is whether this statute, which since January 1, 1975, has been pre-empted by the Federal Employee Retirement Income Security Act (ERISA),[1] was pre-empted prior to that time by federal labor policy insofar as it purported to override or control the terms of collective-bargaining agreements negotiated under the National Labor Relations Act (NLRA). A federal district court held that it was not, 412 F. Supp. 372 (Minn. 1976), but the Court of Appeals for the Eighth Circuit disagreed and held the Pension Act invalid.

[1] Pub. L. 93–496, 88 Stat. 832 (Sept. 2, 1974), provides for comprehensive federal regulation of employee pension plans, 29 U. S. C. § 1001 *et seq.* (Supp. V 1975), and contains a provision expressly pre-empting all state laws regulating covered plans. *Id.*, at § 1144 (a). Because ERISA did not become effective until January 1, 1975, and expressly disclaims any effect with regard to events before that date, it does not apply to the facts of this case.

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 5, 7, 10, 17

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: _____

Recirculated: 3/27

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-1184

E. I. Malone, Commissioner of Labor and Industry for Minnesota, Appellant, *v.* White Motor Corporation and White Farm Equipment Company.

On Appeal from the United States Court of Appeals for the Eighth Circuit.

[March —, 1978]

MR. JUSTICE WHITE delivered the opinion of the Court.

A Minnesota statute, the Private Pension Benefit Protection Act, Minn. Stat. Ann. § 181B.01 *et seq.* (Cum. Supp. 1976) (Pension Act), passed in April 1974, established minimum standards for the funding and vesting of employee pensions. The question in this case is whether this statute, which since January 1, 1975, has been pre-empted by the Federal Employee Retirement Income Security Act (ERISA),[1] was pre-empted prior to that time by federal labor policy insofar as it purported to override or control the terms of collective-bargaining agreements negotiated under the National Labor Relations Act (NLRA). A federal district court held that it was not, 412 F. Supp. 372 (Minn. 1976), but the Court of Appeals for the Eighth Circuit disagreed and held the Pension Act invalid.

[1] Pub. L. 93-496, 88 Stat. 832 (Sept. 2, 1974), provides for comprehensive federal regulation of employee pension plans, 29 U. S. C. § 1001 *et seq.* (Supp. V 1975), and contains a provision expressly pre-empting all state laws regulating covered plans. *Id.*, at § 1144 (a). Because ERISA did not become effective until January 1, 1975, and expressly disclaims any effect with regard to events before that date, it does not apply to the facts of this case.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 16, 1978

MEMORANDUM TO THE CONFERENCE

Re: No. 76-1184, Malone v. White Motor Corp.

I vote to reverse the judgment of the Court of Appeals. I have no question that the Minnesota Private Pension Benefits Protection Act interferes to some degree with the NLRA policy of allowing employers and unions freely to negotiate collective bargaining agreements. Although the Minnesota Act does not require employers to provide pension plans or any specific level of pension benefits, it restricts the shape of any negotiated plan by setting certain minimum vesting and funding standards. The existence of that interference, however, is not dispositive for me because I believe that Congress has left to the states the option of providing such minimum standards with respect to the operation of pension plans.

The legislative history of the Welfare and Pension Disclosure Act of 1958 is not unambiguous, but the committee reports are replete with statements recognizing that state regulation was not to be preempted. Although many of the statements referring to state regulation can be read as authorizing primarily the regulation of trustees and the application of state criminal laws to fiduciary misconduct, I find nothing in the legislative history which persuades me that Congress intended that the states be limited to that type of regulation. One purpose of the legislation was to provide information about pension plans to facilitate consideration of regulatory legislation by the federal and state governments. In the absence of an express intention by Congress to prohibit the states from enacting regulations designed to meet some of the problems Congress noted with respect to existing plans. I read the legislative history as authorizing substantive state regulation such as that contained in the Minnesota Act.

My vote, therefore, is to reverse the judgment of the Court of Appeals on the ground that the Welfare and Pension Disclosure Act of 1958 negates any Congressional intention to preempt the type of state regulation enacted by Minnesota. Although I am not presently inclined to hold that even without the 1958 Act the state could have enacted this statute, it is possible that an opinion on that ground would persuade me.

T.M.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 23, 1978

Re: No. 76-1184 - Malone v. White Motor Corp.

Dear Byron:

Please join me.

Sincerely,

T.M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 17, 1978

Re: No. 76-1184 - Malone v. White Motor Corp.

Dear Byron:

In the next draft of your opinion will you please add a notation that I took no part in the consideration or decision of this case.

Sincerely,

Harry

Mr. Justice White

cc: The Conference

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

From: Mr. Justice Powell

Circulated: 29 MAR 1978

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-1184

E. I. Malone, Commissioner of Labor and Industry for Minnesota, Appellant, *v.* White Motor Corporation and White Farm Equipment Company.

On Appeal from the United States Court of Appeals for the Eighth Circuit.

[April —, 1978]

MR. JUSTICE POWELL, dissenting.

I join MR. JUSTICE STEWART's conclusion that the evidence as to what Congress did *not* do in the Federal Welfare and Pension Plans Disclosure Act of 1958, 72 Stat. 997, is insufficient to override national labor policy barring interference by the States with privately negotiated solutions to problems involving mandatory subjects of collective bargaining.

As in *Teamsters Union* v. *Oliver*, 358 U. S. 283, 297 (1959), "[w]e have not here a case of a collective bargaining agreement in conflict with a local health or safety regulation; the conflict here is between the federally sanctioned agreement and state policy which seeks specifically to adjust relationships in the world of commerce." The statute in this case removes from the bargaining table certain means of dealing with an inevitable trade-off between somewhat conflicting industrial relations goals—the tension between maintaining competitive standards of present compensation and, at the same time, creating a solvent fund for the security of long-term employees upon retirement. In essence, Minnesota has restricted the available options to the fully funded pension plan that vests upon 10 years of service, whenever an employer ceases to operate a place of employment or pension plan. It also imposes a principle of direct liability that well may discour-

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 23, 1978

Re: No. 76-1184 - Malone v. White Motor Corp.

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

March 17, 1978

Re: 76-1184 - Malone v. White Motor Corp.

Dear Byron:

Please join me.

Respectfully,

John

Mr. Justice White

Copies to the Conference