

# The Burger Court Opinion Writing Database

## *Califano v. Jobst*

434 U.S. 47 (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

November 3, 1977

Re: 76-860 Califano v. Jobst

Dear John:

I join your October 27 proposed opinion.

Regards



Mr. Justice Stevens

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

October 26, 1977

RE: No. 76-860 Califano v. Jobst

Dear John:

Please join me.

Sincerely,

*Bill*

Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

Re; Califano v. Jobst, No. 76-860

Dear John:

You may remember that my problem with this case was how to address the significance of the marriage component. I'm troubled with your treatment of the problem in the last 4 sentences of footnote 18. Do you think you could delete all of note 18 but the first sentence? I really don't think that portion of the note is necessary to the decision, and if it can come out I'll be very happy to join.

Sincerely,



Mr. Justice Stevens

Copies to the Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

October 26, 1977

76-860 - Califano v. Jobst

Dear John,

I am glad to join your opinion for the Court in this case, understanding that you plan to make the two minor deletions that we discussed on the telephone today.

Sincerely yours,

Mr. Justice Stevens

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

October 26, 1977

Re: No. 76-860 - Califano v. Jobst

Dear John:

I board the bandwagon.

Sincerely,



Mr. Justice Stevens

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

November 1, 1977

Re: No. 76-860, Califano v. Jobst

Dear John:

Please join me.

Sincerely,

*JM.*  
T.M.

Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

October 26, 1977

Re: No. 76-860 - Califano, Secretary v. Jobst

Dear John:

Please join me.

Sincerely,

*H.A.B.*

Mr. Justice Stevens

cc: The Conference



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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

October 26, 1977

Re: No. 76-860 - Califano, Secretary v. Jobst

Dear John:

Please join me.

Sincerely,

*H.A.B.*

Mr. Justice Stevens

cc: The Conference

[note to Justice Stevens only] - Would you consider eliminating the words "height, weight" as they appear in the third and fourth lines of the full paragraph on page 6? The present phraseology certainly sounds all right, but I can conceive of a future situation where welfare payments might properly be grounded in medical considerations and height and weight are factors, as, for example, dwarfism and obesity. I think leaving your flat announcement of irrationality to race, religion and political affiliation adequately serves the purpose you have in mind.

H. A. B.

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

October 27, 1977

No. 76-860 Califano v. Jobst

Dear John:

Please join me.

Sincerely,

*Lewis*

Mr. Justice Stevens

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

October 26, 1977

Re: No. 76-860 - Califano v. Jobst

Dear John:

Please join me in the expurgated version of your draft  
in this case.

Sincerely,

Mr. Justice Stevens

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: OCT 25 1977

Recirculated: \_\_\_\_\_

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 76-860

Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare, Appellant, v. John A. Jobst.	}	On Appeal from the United States District Court for the Western District of Missouri.
--	---	--

[October —, 1977]

MR. JUSTICE STEVENS delivered the opinion of the Court.

The question presented is whether Congress has the power to require that a dependent child's Social Security benefits terminate upon marriage even though his spouse is permanently disabled. Answering that question in the negative, the District Court held that 42 U. S. C. § 402 (d) (1) (D) and § 402 (d) (5) deprive appellee of property without due process of law. 368 F. Supp. 909. We reverse.

Mr. Jobst has been disabled by cerebral palsy since his birth in 1932. He qualified for child's insurance benefits in 1957, several months after his father died. In 1970 he married another cerebral palsy victim. Since his wife was not entitled to benefits under the federal act,<sup>1</sup> the statute required the Secretary to terminate his benefits.<sup>2</sup>

<sup>1</sup> Mrs. Jobst was receiving welfare assistance from the Division of Welfare of the State of Missouri, but was not receiving any Social Security benefits under 42 U. S. C. §§ 401-432.

<sup>2</sup> "Section 202 of the Social Security Act, 49 Stat. 623, as amended, 42 U. S. C. (and Supp. V) § 402, provides in pertinent part:

"(d) (1) Every child (as defined in section 416 (e) of this title) of an individual entitled to old-age or disability insurance benefits or of an individual who dies a fully or currently insured individual, if such child—

[Footnote 2 continued on p. 2]

pp. 6, 8-9, 11  
 footnote 18 omitted

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: ~~OCT 27 '77~~

Recirculated: OCT 27 '77

2nd DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 76-860

Joseph A. Califano, Jr., Secretary  
 of Health, Education, and  
 Welfare, Appellant,  
 v.  
 John A. Jobst.

On Appeal from the United  
 States District Court for  
 the Western District of  
 Missouri.

[October —, 1977]

MR. JUSTICE STEVENS delivered the opinion of the Court.

The question presented is whether Congress has the power to require that a dependent child's Social Security benefits terminate upon marriage even though his spouse is permanently disabled. Answering that question in the negative, the District Court held that 42 U. S. C. § 402 (d) (1) (D) and § 402 (d) (5) deprive appellee of property without due process of law. 368 F. Supp. 909. We reverse.

Mr. Jobst has been disabled by cerebral palsy since his birth in 1932. He qualified for child's insurance benefits in 1957, several months after his father died. In 1970 he married another cerebral palsy victim. Since his wife was not entitled to benefits under the federal act,<sup>1</sup> the statute required the Secretary to terminate his benefits.<sup>2</sup>

<sup>1</sup> Mrs. Jobst was receiving welfare assistance from the Division of Welfare of the State of Missouri, but was not receiving any Social Security benefits under 42 U. S. C. §§ 401-432.

<sup>2</sup> Section 202 of the Social Security Act, 49 Stat. 623, as amended, 42 U. S. C. (and Supp. V) § 402, provides in pertinent part:

"(d) (1) Every child (as defined in section 416 (e) of this title) of an individual entitled to old-age or disability insurance benefits or of an individual who dies a fully or currently insured individual, if such child—

[Footnote 2 continued on p. 2]

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

November 14, 1977

MEMORANDUM TO THE CONFERENCE

Re: Case Heretofore Held for Califano v. Jobst,  
76-860

---

76-1588 - Califano v. McMahon.

Appellee's disabled child's benefits were cut off when she married another disabled person who did not qualify for benefits. Appellee challenged the cut-off on constitutional grounds.

Judge Weinstein thought that the cut-off was probably constitutional, but in the interest of national uniformity he followed Judge Oliver's ruling in Jobst. In granting relief to appellee, he also stated that "if there is a reversal in Jobst, necessarily I'll reverse myself in this case." J.S. App. 5a.

Appellee argues that her case is stronger than Jobst's because her husband is dead, so that a permanent cut-off falls on her with particular irrationality. This argument is probably foreclosed by Jobst, but in any event is best addressed to Judge Weinstein on remand. The present judgment was not based on the irrationality of a permanent cut-off.

I shall vote to vacate and remand in light of Califano v. Jobst, No. 76-860, \_\_\_ U.S. \_\_\_ (1977).

Respectfully,

