The Burger Court Opinion Writing Database

Teamsters v. Daniel

439 U.S. 551 (1979)

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

January 2, 1979

PERSONAL

Dear Lewis:

Re: 77-753;754 International Bro'hd. Teamsters v. Daniel

I find myself in agreement with Byron on footnote 22. Moreover, I have real doubt about the need for the discussion beginning the full paragraph on page 12 and concluding on p. 13. Is it necessary to decision?

Regards,

WEB

Mr. Justice Powell

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

CHAMBERS OF
THE CHIEF JUSTICE

January 11, 1978

Dear Lewis:

Re: (77-753 International Brotherhood of Teamsters v.
(Daniel
(77-754 Local 705 v. Daniel

Thank you for accommodating my view on your Note 22.

As to the 1970 Amendment I will "flag" the problem with the brief concurrence as attached. This should not hold things up.

Regards,

WEB

Mr. Justice Powell

cc: The Conference

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

From: The Chief Justice

Circulated: JAN 11 1979

Recirculated: _____

No. 77-753, International Brotherhood of Teamsters v. Daniel and No. 77-754, Local 705, Teamsters v. Daniel.

Mr. Chief Justice Burger, concurring.

I join in the opinion of the Court except as to the discussion of the 1970 amendment to section 3(a)(2) of the Securities Act. There is no need to deal, in this case, with the scope of the exemption, since it is not an issue presented for decision.

The Commission argues that the new exemption from the registration requirements of the Act applies to participation in a pension plan, and infers that Congress must have understood that such participation is a security which otherwise would be subject to the Act. It is not necessary to evaluate the Commission's interpretation, however, because even if it is correct, it does not support the conclusion the Commission draws.

First, the inference concerning Congress' understanding of the Act in 1970 is tenuous. The language of the amendment covers a variety of financial interests, some of which clearly are

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 11, 1979

RE: No. 77-753 & 77-754 International Brotherhood of Teamsters, etc. v. John Daniel

Dear Lewis:

I agree.

Sincerely,

Bill

Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

December 20, 1978

Re: Nos. 77-753 and 77-754,
Teamsters v. Daniel

Dear Lewis,

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

Sincerely yours,

P.S.

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 26, 1978

Re: Nos. 77-753 and 77-754:
Teamsters v. Daniel, etc.

Dear Lewis,

I have my doubts about dealing with the subject matter covered by footnote 22, but otherwise I join your opinion.

Sincerely yours,

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 21, 1978

Re: Nos. 77-753 and 77-754,
Teamsters v. Daniel

Dear Lewis:

Please join me.

Sincerely,

T.M.

Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 27, 1978

Re: No. 77-753 - Teamsters v. Daniel
No. 77-754 - Local 705 v. Daniel

Dear Lewis:

Please join me.

Sincerely,

Harry

Mr. Justice Powell

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: 20 DEC 1978

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 77-753 AND 77-754

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner, 77-753 v. John Daniel.	On Writs of Certiorari to the United States Court of Appeals for the Seventh Circuit.
Local 705, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, et al., Petitioners, 77-754 v. John Daniel.	

[January —, 1979]

MR. JUSTICE POWELL delivered the opinion of the Court.

This case presents the question whether a noncontributory, compulsory pension plan constitutes a "security" within the meaning of the Securities Act of 1933 and the Securities Exchange Act of 1934 (Securities Acts).

I

In 1954 multiemployer collective bargaining between Local 705 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America and Chicago trucking firms produced a pension plan for employees represented by the Local. The plan was compulsory and noncontributory. Employees had no choice as to participation in the plan, and did not have the option of demanding that

Bruce -
Eric ✓
David ✓
Paul

January 11, 1979

77-753 Int'l Brotherhood v. Daniel

Dear Chief:

In accordance with suggestions from you and Byron I have rewritten footnote 22. Byron agrees that, in my second draft circulated today, the note is in satisfactory form.

The other suggestion in your letter of January 2, relates to the paragraph that commences on page 12, which you suggest may not be necessary. It probably isn't essential to the opinion, and yet it seems desirable to me to include it in view of reliance by the SEC, and respondent, on specified legislative and administrative actions.

The inference in your letter is that the 1970 amendment of the Securities Act really has nothing to do with this case. I agree. Inasmuch, however, as the SEC argues that it is relevant, it seems desirable to meet the argument.

I appreciate your commenting on my draft.

Sincerely,

The Chief Justice

lfp/ss

To: The Chief
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:

Recirculated: 11 JAN 1979

5, 8, 9, 16, 18

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 77-753 AND 77-754

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner,
77-753 v.
John Daniel.

Local 705, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, et al., Petitioners,
77-754 v.
John Daniel.

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

[January —, 1979]

MR. JUSTICE POWELL delivered the opinion of the Court.

This case presents the question whether a noncontributory, compulsory pension plan constitutes a "security" within the meaning of the Securities Act of 1933 and the Securities Exchange Act of 1934 (Securities Acts).

I

In 1954 multiemployer collective bargaining between Local 705 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America and Chicago trucking firms produced a pension plan for employees represented by the Local. The plan was compulsory and noncontributory. Employees had no choice as to participation in the plan, and did not have the option of demanding that

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 18, 1979

77-753 and 77-754 Teamsters v. Daniel

MEMORANDUM TO THE CONFERENCE:

Absent objection, I am asking Mr. Putzel to make the editing changes in the last two sentences on page 8 of the Court's opinion, as indicated on the enclosed copy of that page.

At our Conference on Friday, I will state why I propose these changes.

L.F.P.

L.F.P., Jr.

ss

and harvesting of orange grove); *SEC* v. *C. M. Joiner Leasing Corp.*, 320 U. S. 344 (1943) (money paid for land and oil exploration). Even in those cases where the interest acquired had intermingled security and nonsecurity aspects, the interest obtained had "to a very substantial degree elements of investment contracts . . . ." *Variable Annuity Life Ins. Co., supra,* at 91 (BRENNAN, J., concurring). In every case the purchaser gave up some tangible and definable consideration in return for an interest that had substantially the characteristics of a security.

In a pension plan such as this one, by contrast, the purported investment is a relatively insignificant part of an employee's total and indivisible compensation package. No portion of an employee's compensation other than the potential pension benefits has any of the characteristics of a security, yet these noninvestment interests cannot be segregated from the possible pension benefits. Only in the most abstract sense may it be said that an employee "exchanges" some portion of his labor in return for these possible benefits.[12] He surrenders his labor as a whole, and in return receives a compensation package that is substantially devoid of aspects resembling a security. His decision to accept and retain covered employment ~~must~~ have only an ~~extremely~~ attenuated relationship, if any, to perceived investment possibilities of a future pension. Looking at the economic realities, it seems clear that an employee is selling his labor to obtain a livelihood, not making an investment ~~for the future~~.

Respondent also argues that employer contributions on his behalf constituted his investment into the Fund. But it is inaccurate to describe these payments as having been "on behalf" of any employee. The trust agreement used employee man-weeks as a convenient way to measure an employ-

[12] This is not to say that a person's "investment," in order to meet the definition of an investment contract, must take the form of cash only rather than of goods and services. See *Forman, supra,* at 852 n. 16.

Paul - Please change

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

Done PBS

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 3, 1979

Re: Nos. 77-753 and 77-754 - Teamsters v. Daniel

Dear Lewis:

I have previously joined you in this case. I had one "stylistic suggestion" which I meant to add to your copy of the join letter, but which I overlooked. On page 5 of the first draft, it seems to me it would be more accurate in terms of the statutes and rules governing federal practice to say "The order denying the motion to dismiss was certified" than to say "The motion to dismiss was certified". Needless to say, my "join" is not conditioned upon your agreeing to this rather nit-picking change.

Sincerely,

WHR

Mr. Justice Powell

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 3, 1979

Re: Nos. 77-753 and 77-754 - Teamsters v. Daniel

Dear Lewis:

Please join me.

Sincerely,

WHR

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

December 20, 1978

Re: 77-753 and 77-754
Int'l Brotherhood of Teamsters, etc.
v. Daniel

Dear Lewis:

Please show me as not participating in these cases.

Respectfully,

Mr. Justice Powell

Copies to the Conference