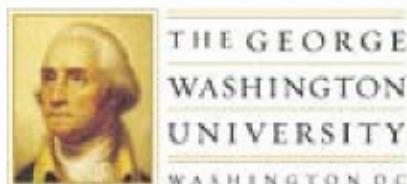


The Burger Court Opinion Writing Database

United States v. Addonizio
442 U.S. 178 (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

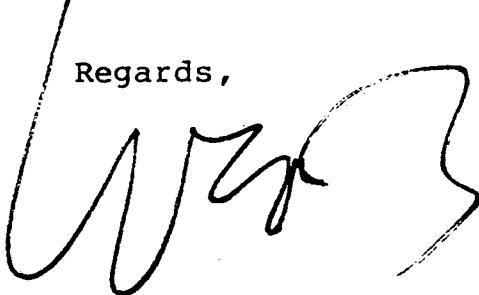
May 30, 1979

78-156 - U.S. v. Addonizio

Dear John:

I join.

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.

May 25, 1979

RE: No. 78-156 United States v. Addonizio, et al.

Dear John:

Will you please mark at the foot of your opinion:

"Mr. Justice Brennan took no part in the
decision of this case."

Sincerely,



Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 23, 1979

Re: 78-156 - United States v. Addonizio

Dear John:

I am glad to join your opinion for the
Court.

Sincerely yours,

P.S.

Mr. Justice Stevens

Copies for the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 22, 1979

No. 78-156 - United States v. Addonizio

Dear John,

Please join me.

Sincerely yours,



Mr. Justice Stevens

Copies to the Conference

cmc

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 29, 1979

Re: No. 78-156 - United States v. Addonizio

Dear John:

Please join me.

Sincerely,

T.M.

T.M.

Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 23, 1979

Re: 78-156 - United States v. Addonizio

Dear John:

Please join me.

Sincerely,



Mr. Justice Stevens
cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 22, 1979

78-156 U.S. v. Addonizio

Dear John:

Please show on the next draft of your opinion that I took no part in the consideration or decision of this case.

Sincerely,



Mr. Justice Stevens

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 25, 1979

Re: No. 78-156 - United States v. Addonizio

Dear John:

Please join me.

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: May 22 '79

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 78-156

United States, Petitioner, } On Writ of Certiorari to the United
 v. } States Court of Appeals for the
 Hugh J. Addonizio et al. } Third Circuit.

[May —, 1979]

MR. JUSTICE STEVENS delivered the opinion of the Court.

Three prisoners have alleged that a postsentencing change in the policies of the United States Parole Commission has prolonged their actual imprisonment beyond the period intended by the sentencing judge. The question presented is whether this type of allegation will support a collateral attack on the original sentence under 18 U. S. C. § 2255.¹ We hold that it will not.

I

With respect to the legal issue presented, the claims before

¹ 28 U. S. C. § 2255 provides:

"A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

"If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate."

316112

To: The Chief
 Mr. Justice
 Mr. Justice

Crossed: Mr. Justice Stevens

Circulated:

Recirculated:

6/28/79

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-156

United States, Petitioner, } On Writ of Certiorari to the United
 v. } States Court of Appeals for the
 Hugh J. Addonizio et al. } Third Circuit.

[June —, 1979]

MR. JUSTICE STEVENS delivered the opinion of the Court.

Three prisoners have alleged that a postsentencing change in the policies of the United States Parole Commission has prolonged their actual imprisonment beyond the period intended by the sentencing judge. The question presented is whether this type of allegation will support a collateral attack on the original sentence under 18 U. S. C. § 2255.¹ We hold that it will not.

I

With respect to the legal issue presented, the claims before

¹ 28 U. S. C. § 2255 provides:

"A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

"If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate."

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 5, 1979

MEMORANDUM TO THE CONFERENCE

RE: Case Held for No. 78-156 - United States v. Addonizio

One case has been held for United States v. Addonizio. That case is No. 78-6396, Farmer v. United States. I recommend that cert be denied.

Petitioner was convicted of bank robbery in the Eastern District of Virginia, and is currently confined in the Lewisburg Penitentiary in the Middle District of Pennsylvania serving his sentence for that conviction. He brought this action under 28 U.S.C. § 2255 in the Eastern District of Virginia claiming that the United States Parole Commission, in denying him parole on the basis of its newly adopted guidelines, had frustrated the intent of the sentencing judge and unconstitutionality enhanced his sentence in violation of the Ex Post Facto Clause of the Constitution. The District Court dismissed the action, finding that it lacked jurisdiction to review the discretionary decision of the Parole Commission in denying a parole application. The Court of Appeals for the Fourth Circuit affirmed. In an opinion by Judge Widener, that court held that a prisoner may not attack his sentence under § 2255 on the ground that the Parole Commission adopted or amended eligibility guidelines after the imposition of sentence. It found that the Parole Commission had exercised its discretion consistently with the letter and the spirit of the law, and that the courts should not interfere with that exercise of discretion.