

The Burger Court Opinion Writing Database

United States v. Timmreck

441 U.S. 780 (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 16, 1979

Dear John:

Re: 78-744 U.S. v. Timmreck

I join.

Regards,

Mr. Justice Stevens

cc: The Conference

WJB

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 10, 1979

RE: No. 78-744 United States v. Timmreck

Dear John:

I was the other way but your brevity is the soul
of persuasion. Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 9, 1979

Re: No. 78-744, United States v. Timmreck

Dear John,

I am glad to join your opinion for
the Court.

Sincerely yours,

P.S.
/

Mr. Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 10, 1979

Re: No. 78-744 - U. S. v. Timmreck

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 16, 1979

Re: No. 78-744 - United States v. Timmreck

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 11, 1979

Re: No. 78-744 - United States v. Timmreck

Dear John:

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "H. Blackmun", with a horizontal line underneath.

Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

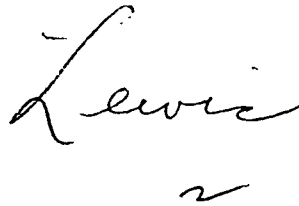
May 10, 1979

No. 78-744 United States v. Timmreck

Dear John:

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lewis", with a small flourish underneath.

Mr. Justice Stevens

Copies to the Conference

LFP/lab

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 11, 1979

Re: No. 78-744 - United States v. Timmreck

Dear John:

Please join me.

Sincerely,

A handwritten signature in dark ink, appearing to be 'WHR', written over a diagonal line.

Mr. Justice Stevens

Copies to the Conference

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

9 79

78-744 - United States v. Timmreck

Circulated: _____

Recirculated: _____

MR. JUSTICE STEVENS delivered the opinion of the Court. 102

The question presented is whether a conviction based on a guilty plea is subject to collateral attack whenever it can be shown that Rule 11 of the Rules of Criminal Procedure was violated when the plea was accepted.

In this case, acting on the advice of counsel, the defendant pleaded guilty to a charge of conspiracy to distribute various controlled substances. As required by Rule 11,^{1/} the district judge formally addressed the defendant

^{1/} "At the time of respondent's guilty plea, Rule 11 of the Federal Rules of Criminal Procedures provided:

"A defendant may plead not guilty, guilty, or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty, and shall not accept such plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and the consequence of the plea.

"Rule 11 now provides in pertinent part:

"Advice to Defendant. Before accepting a plea of guilty or nolo contendere, the court must address the defendant personally in open court and inform him of, and determine that he understands, the following:

"(1) the nature of the charge to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; and

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: _____

Recirculated: MAY 10 '79

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-744

United States, Petitioner, | On Writ of Certiorari to the United
 v. | States Court of Appeals for the
 Charles Timmreck. | Sixth Circuit.

[May —, 1979]

MR. JUSTICE STEVENS delivered the opinion of the Court.

The question presented is whether a conviction based on a guilty plea is subject to collateral attack whenever it can be shown that Rule 11 of the Rules of Criminal Procedure was violated when the plea was accepted. Federal

In this case, acting on the advice of counsel, the defendant pleaded guilty to a charge of conspiracy to distribute various controlled substances. As required by Rule 11,¹ the District

¹ At the time of respondent's guilty plea, Rule 11 of the Federal Rules of Criminal Procedures provided:

"A defendant may plead not guilty, guilty, or, with the consent of the court, *nolo contendere*. The court may refuse to accept a plea of guilty, and shall not accept such plea or a plea of *nolo contendere* without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and the consequence of the plea."

Rule 11 now provides in pertinent part:

"Advice to Defendant. Before accepting a plea of guilty or *nolo contendere*, the court must address the defendant personally in open court and inform him of, and determine that he understands, the following:

"(1) the nature of the charge to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; and

"(2) if the defendant is not represented by an attorney, that he has the right to be represented by an attorney at every stage of the proceeding against him and, if necessary, one will be appointed to represent him; and

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: _____

Recirculated: MAY 13 1979

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-744

United States, Petitioner,	On Writ of Certiorari to the United
v.	States Court of Appeals for the
Charles Timmreck.	Sixth Circuit.

[May —, 1979]

MR. JUSTICE STEVENS delivered the opinion of the Court.

The question presented is whether a conviction based on a guilty plea is subject to collateral attack whenever it can be shown that Rule 11 of the Federal Rules of Criminal Procedure was violated when the plea was accepted.

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Rule 11 now provides in pertinent part:

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"(1) the nature of the charge to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; and

"(2) if the defendant is not represented by an attorney, that he has the right to be represented by an attorney at every stage of the proceeding against him and, if necessary, one will be appointed to represent him; and

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 22, 1979

MEMORANDUM TO THE CONFERENCE

RE: Case Held for No. 78-744 - Timmreck v. United States
No. 78-5263 - Richardson v. United States

Only one case has been held for Timmreck v. United States. That case is No. 78-5263, Richardson v. United States. I recommend that cert be denied.

Petitioner Richardson was advised by the trial judge at the time he pleaded guilty "that the possible maximum consequence of his plea could amount to a fine of not more than \$25,000 or imprisonment for up to 15 years or both followed by a minimum special parole term of 3 years." He was not advised of the possibility of a lifetime special parole term. The District Court then sentenced him to imprisonment for 12 years, to be followed by an 8 year special parole term. Petitioner did not appeal. Two years later, however, he filed a motion to vacate his sentence on the grounds that the trial judge, in failing to warn him as to the possible maximum special parole term, had violated Rule 11.

The District Court denied the motion. On appeal, CA8 reasoned that noncompliance with the formal requirements of a rule of criminal procedure is not cognizable in a § 2255