

The Burger Court Opinion Writing Database

United States v. Batchelder

442 U.S. 114 (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

(8)

CHAMBERS OF
THE CHIEF JUSTICE

May 26, 1979

Dear Thurgood:

Re: 78-776 U.S. v. Batchelder

I join.

Regards,

W.B.

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 17, 1979

RE: No. 78-776 United States v. Batchelder

Dear Thurgood:

I agree.

Sincerely,

Bill

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 17, 1979

Re: No. 78-776, United States v. Batchelder

Dear Thurgood,

I am glad to join your opinion for the
Court.

Sincerely yours,

P.S.,
P.S.

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

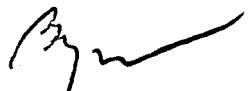
May 17, 1979

Re: No. 78-776 — United States v. Batchelder

Dear Thurgood:

I agree.

Sincerely,



Mr. Justice Marshall

Copies to the Conference

78-776

16 MAY 1979

United States v. Batchelder

MR. JUSTICE MARSHALL delivered the opinion of the Court.

At issue in this case are two overlapping provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (the Omnibus Act).^{1/} Both prohibit convicted felons from receiving firearms, but each authorizes different maximum penalties. We must determine whether a defendant convicted of the offense carrying the greater penalty may be sentenced only under the more lenient provision when his conduct violates both statutes.

I

Respondent, a previously convicted felon, was found guilty of receiving a firearm that had traveled in interstate commerce, in violation of 18 U.S.C. § 922(h). ^{2/} The District Court sentenced him under 18 U.S.C. § 924(a) to five years' imprisonment, the maximum term authorized for violation of § 922(h). ^{3/}

The Court of Appeals affirmed the conviction but, by a divided vote, remanded for resentencing. 581 F.2d 626 (CA7

1, 2, 3, 5, 6, 7, 11

5/22/79

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-776

United States, Petitioner, | On Writ of Certiorari to the United
v. | States Court of Appeals for the
Milton Dean Batchelder. | Seventh Circuit.

[May —, 1979]

MR. JUSTICE MARSHAL delivered the opinion of the Court.

At issue in this case are two overlapping provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (the Omnibus Act).¹ Both prohibit convicted felons from receiving firearms, but each authorizes different maximum penalties. We must determine whether a defendant convicted of the offense carrying the greater penalty may be sentenced only under the more lenient provision when his conduct violates both

I

Respondent, a previously convicted felon, was found guilty of receiving a firearm that had traveled in interstate commerce, in violation of 18 U. S. C. § 922 (h).² The District

¹ Pub. L. No. 90-351, 82 Stat. 197.

² In pertinent part, 18 U. S. C. § 922 (h) provides:
"It shall be unlawful for any person—

"(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) who is a fugitive from justice;

"(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug . . . or narcotic drug . . . ; or

"(4) who has been adjudicated as a mental defective or who has been committed to any mental institution;

"to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce."

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 18, 1979

Re: 78-776 - United States v. Batchelder

Dear Thurgood:

Please join me.

Sincerely,

Harry

Mr. Justice Marshall

cc: The Conference

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

4

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 17, 1979

78-776 United States v. Batchelder

Dear Thurgood:

Please join me.

Sincerely,

Lewis

Mr. Justice Marshall

lfp/ss

cc: The Conference

5

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 23, 1979

Re: No. 78-776 United States v. Batchelder

Dear Thurgood:

Please join me.

Sincerely,

WHR

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 17, 1979

Re: 78-776 - United States v. Batchelder

Dear Thurgood:

Please join me.

Respectfully,



Mr. Justice Marshall

Copies to the Conference