

The Burger Court Opinion Writing Database

Idaho ex rel. Evans v. Oregon

444 U.S. 380 (1980)

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

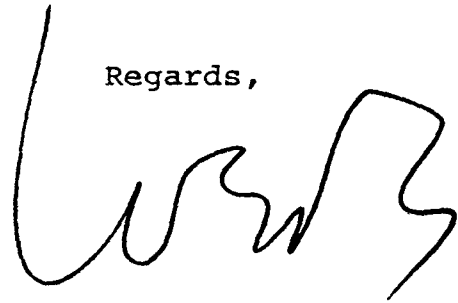
January 18, 1980

Re: 67 Orig. - Idaho Ex Rel. Evans v. Oregon

Dear Bill:

I join.

Regards,

A handwritten signature in dark ink, appearing to be 'WRB', written in a cursive, stylized manner.

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 9, 1980

RE: No. 67 Orig. State of Idaho ex rel. John V. Evans
v. States of Oregon and Washington

Dear Bill:

I agree.

Sincerely,

Bill

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 16, 1980

Re: 67 Original - Idaho v. Oregon and Washington

Dear Bill:

I should appreciate your adding the following at the bottom of your opinion for the Court:

Mr. Justice Stewart dissents. Agreeing with the Special Master's Report, he would overrule Idaho's exceptions thereto and would order that the complaint be dismissed.

Sincerely yours,

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 9, 1980

Re: No. 67 Orig. - Idaho v. Oregon and
Washington

Dear Bill,

Please join me.

Sincerely yours,



Mr. Justice Rehnquist

Copies to the Conference

cmc

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 17, 1980

Re: No. 67 Orig. - Idaho v. Oregon

Dear Bill:

Please show on your opinion that I
joined Potter Stewart's dissent.

Sincerely,

J.M.
T.M.

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

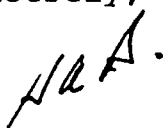
January 11, 1980

Re: No. 67 Orig. - Idaho v. Oregon

Dear Bill:

Please join me.

Sincerely,

A handwritten signature in dark ink, appearing to be 'H.A. Blackmun', written in a cursive style.

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 9, 1980

67-Orig.-Idaho-v.-Oregon-and-Washington

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Rehnquist

lfp/ss

cc: 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 Stevens

From: Mr. Justice Rehnquist

Circulated: 8 JAN 1980

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 67, Orig.

State of Idaho ex rel. John V. Evans,
Governor; David H. Leroy, Attorney General; Joseph C. Greenley,
Director, Department of Fish and Game, Plaintiffs,
v.
States of Oregon and Washington,

On Bill of Complaint.

[January —, 1980]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Invoking this Court's original jurisdiction, the State of Idaho brought suit against the States of Oregon and Washington to secure equitable apportionment of various runs of anadromous fish migrating between spawning grounds in Idaho and the Pacific Ocean. We granted Idaho leave to file its complaint, but left open the questions whether that complaint stated a claim upon which relief may be granted and whether the United States was an indispensable party to the action. 429 U. S. 163 (1976). We later referred the action to a Special Master. 431 U. S. 952 (1977). On February 2, 1979, the Special Master recommended that Idaho's action be dismissed for failure to join the United States, but that the dismissal be without prejudice to Idaho's right to refile its suit at some later date if it is wholly unable to obtain a remedy through negotiation with Oregon and Washington. Idaho has filed exceptions to that recommendation.

I

The Snake River rises in northwest Wyoming and flows across southern Idaho, eventually turning northward and

pp 458-10, 12

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

From: Mr. Justice Rehnquist

Circulated: _____

Recirculated: 17 JAN 1980

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 67, Orig.

State of Idaho ex rel. John V. Evans,
Governor; David H. Leroy, Attorney General; Joseph C. Greenley,
Director, Department of Fish and Game, Plaintiffs,
v.
States of Oregon and Washington.

On Bill of Complaint.

[January —, 1980]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Invoking this Court's original jurisdiction, the State of Idaho brought suit against the States of Oregon and Washington to secure equitable apportionment of various runs of anadromous fish migrating between spawning grounds in Idaho and the Pacific Ocean. We granted Idaho leave to file its complaint, but left open the questions whether that complaint stated a claim upon which relief may be granted and whether the United States was an indispensable party to the action. 429 U. S. 163 (1976). We later referred the action to a Special Master. 431 U. S. 952 (1977). On February 2, 1979, the Special Master recommended that Idaho's action be dismissed for failure to join the United States, but that the dismissal be without prejudice to Idaho's right to refile its suit at some later date if it is wholly unable to obtain a remedy through negotiation with Oregon and Washington. Idaho has filed exceptions to that recommendation.

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The Snake River rises in northwest Wyoming and flows across southern Idaho, eventually turning northward 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 Stevens

From: Mr. Justice Rehnquist

Circulated: _____

Recirculated: _____ 18 JAN 1980

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 67, Orig.

State of Idaho ex rel. John V. Evans,
Governor; David H. Leroy, Attorney General; Joseph C. Greenley,
Director, Department of Fish and Game, Plaintiffs,
v.
States of Oregon and Washington.

On Bill of Complaint.

[January —, 1980]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Invoking this Court's original jurisdiction, the State of Idaho brought suit against the States of Oregon and Washington to secure equitable apportionment of various runs of anadromous fish migrating between spawning grounds in Idaho and the Pacific Ocean. We granted Idaho leave to file its complaint, but left open the questions whether that complaint stated a claim upon which relief may be granted and whether the United States was an indispensable party to the action. 429 U. S. 163 (1976). We later referred the action to a Special Master. 431 U. S. 952 (1977). On February 2, 1979, the Special Master recommended that Idaho's action be dismissed for failure to join the United States, but that the dismissal be without prejudice to Idaho's right to refile its suit at some later date if it is wholly unable to obtain a remedy through negotiation with Oregon and Washington. Idaho has filed exceptions to that recommendation.

I

The Snake River rises in northwest Wyoming and flows across southern Idaho, eventually turning northward and

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 18, 1980

MEMORANDUM TO THE CONFERENCE


Re: No. 67 Orig., Idaho ex rel. Evans v. Oregon & Washington

The attached correspondence was forwarded to me by Mike Rodak. The State of Washington is requesting a "minor" change in the above-captioned opinion filed January 21, 1980. The State of Idaho has objected to the suggested change. Although Washington's letter is not formally styled as a motion for rehearing or to amend the opinion, in the interest of expedition I am referring the matter to the full Conference.

I am inclined to deny Washington's request. The statement that the Court of Appeals "affirmed" the determination of the District Court in Sohappy is obviously intended to paraphrase the appellate court's holding, not to reflect its full complexity. As such a shorthand expression, I believe it to be accurate.

Absent dissent, I will ask Mike Rodak to notify the parties that Washington's request has been denied.

Sincerely,



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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 10, 1980

Re: 67 Orig. - State of Idaho v. States of
Oregon and Washington

Dear Bill:

Please join me.

Respectfully,



Mr. Justice Rehnquist

Copies to the Conference