

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

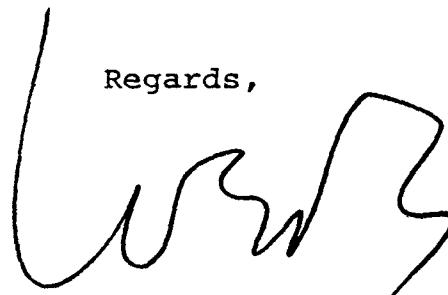
January 18, 1980

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

Dear Bill:

I join.

Regards,



Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE W. 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,



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,

h.a.

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
 • JAN 1980

Circulated: _____

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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

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

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17 JAN 1980

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pp 458-1012
 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, | On Bill of Complaint.
 v.
 States of Oregon and Washington.

[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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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: _____

18 JAN 1980

Recirculated: _____

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. On Bill of Complaint.

States of Oregon and Washington.

[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

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