

# The Burger Court Opinion Writing Database

## *Carbon Fuel Co. v. Mine Workers*

444 U.S. 212 (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

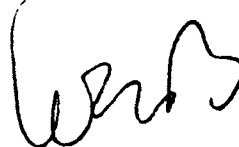
December 3, 1979

Re: 78-1183 - Carbon Fuel Co. v. United Mine Workers

Dear Bill:

I am working on this case and will soon see if  
(a) it will "wash" and (b) if it is worthwhile.

Regards,



Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF  
THE CHIEF JUSTICE

December 7, 1979

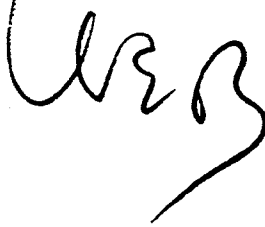
Re: 78-1183 - Carbon Fuel Co. v. United Mine Workers  
of America

Dear Bill:

This will confirm my "graveside" acquiescence.

The case can therefore come down next week.

Regards,



Mr. Justice Brennan

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

November 8, 1979

RE: No. 78-1183 Carbon Fuel Co. v. United Mine Workers  
of America

---

Dear Chief:

I'll try my hand at an opinion for the Court in the  
above.

Sincerely,

*Bill*

The Chief Justice

cc: The Conference

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

From: Mr. Justice Brennan

Circulated: 11-29-79

Recirculated: \_\_\_\_\_

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1183

Carbon Fuel Company, Petitioner, } On Writ of Certiorari to  
v. } the United States Court  
United Mine Workers of America } of Appeals for the  
et al. } Fourth Circuit.

[December —, 1979]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

The question for decision in this case is whether an International Union, which neither instigates, supports, ratifies, or encourages "wildcat" strikes engaged in by Local Unions in violation of a collective-bargaining agreement, may be held liable in damages to an affected employer if the Union did not use all reasonable means available to it to prevent the strikes or bring about their termination.

Petitioner, Carbon Fuel Company, and respondent, United Mine Workers of America (UMWA), were parties to the National Coal Wage Agreements of 1968 and 1971, collective-bargaining agreements covering, *inter alia*, workers at petitioner's several coal mines in southern West Virginia. Forty-eight unauthorized or "wildcat" strikes were engaged in by three Local Unions at petitioner's mines from 1969 to 1973. Efforts of District 17, a regional subdivision of UMWA, to persuade the miners not to strike and to return to work were uniformly unsuccessful.<sup>1</sup>

<sup>1</sup> The facts relevant to the participation of the District and International in the wildcat strikes can be briefly stated. As recently as 1966 the International expressed its intention to discipline "wildcatters." The District and International were promptly notified of each strike. In each instance a District representative arranged for a meeting of the striking Local and directed the members to return to work. Often the represen-

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

December 3, 1979

RE: No. 78-1183 Carbon Fuel Co. v. United Mine Workers  
of America

---

Dear Lewis:

Do you think the attached footnote 5 to the first  
paragraph of "A" would meet your concerns?

Sincerely,

*Bill*

Mr. Justice Powell

Encl.

4.5.8

Mr. Chief Justice  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Brennan  
Mr. Justice Marshall  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Souter  
Mr. Justice Stevens

Mr. Justice Brennan  
Circulated: \_\_\_\_\_  
Recirculated: 1000

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1183

Carbon Fuel Company, Petitioner, } On Writ of Certiorari to  
v. } the United States Court  
United Mine Workers of America } of Appeals for the  
et al. } Fourth Circuit.

[December —, 1979]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

The question for decision in this case is whether an International Union, which neither instigates, supports, ratifies, or encourages "wildcat" strikes engaged in by Local Unions in violation of a collective-bargaining agreement, may be held liable in damages to an affected employer if the Union did not use all reasonable means available to it to prevent the strikes or bring about their termination.

Petitioner, Carbon Fuel Company, and respondent, United Mine Workers of America (UMWA), were parties to the National Coal Wage Agreements of 1968 and 1971, collective-bargaining agreements covering, *inter alia*, workers at petitioner's several coal mines in southern West Virginia. Forty-eight unauthorized or "wildcat" strikes were engaged in by three Local Unions at petitioner's mines from 1969 to 1973. Efforts of District 17, a regional subdivision of UMWA, to persuade the miners not to strike and to return to work were uniformly unsuccessful.<sup>1</sup>

<sup>1</sup> The facts relevant to the participation of the District and International in the wildcat strikes can be briefly stated. As recently as 1966 the International expressed its intention to discipline "wildcatters." The District and International were promptly notified of each strike. In each instance a District representative arranged for a meeting of the striking Local and directed the members to return to work. Often the represen-

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

December 6, 1979

RE: No. 78-1183 Carbon Fuel Co. v. Mine Workers

Dear Potter:

Thank you very much for your suggestion which I  
am very happy to adopt.

Sincerely,

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

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

December 6, 1979

Re: No. 78-1183, Carbon Fuel Co. v. Mine Workers

Dear Bill,

I agree with your conclusion in this case and basically with your opinion. My only real problem is with the last sentence of the text on page 5, which seems to me unnecessarily broad.

Would you consider changing that sentence along the following lines: Accordingly, we reject petitioner's suggestion that Congress' policy in favor of arbitration extends to imposing an obligation on the respondents, which agreed to arbitrate grievances, to use reasonable means to try to control the locals' actions in contravention of that agreement.

If so, I would gladly join your opinion for the Court.

Sincerely yours,

Mr. Justice Brennan

Copies to the Conference

P.S.

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

CHAMBERS OF  
JUSTICE POTTER STEWART

December 6, 1979

Re: No. 78-1183, Carbon Fuel Co. v. Mine Workers

Dear Bill,

In the light of your generous note, I am  
glad to join your opinion for the Court.

Sincerely yours,

PS,  
1.  
/

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

December 3, 1979

Re: 78-1183 - Carbon Fuel Company v.  
United Mine Workers of  
America

---

Dear Bill,

Please join me.

Sincerely yours,



Mr. Justice Brennan

Copies to the Conference

cmc

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

November 30, 1979

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

Re: No. 78-1183 - Carbon Fuel Co. v. United Mine  
Workers of America

---

Dear Bill:

In a separate note, I am joining your opinion. Might I suggest strengthening footnote 7 with the following material?

"Moreover, the trial examiner's interpretation of the contract appears to reject, rather than support, petitioner's suggested reading concerning the liability of the Union for wildcat strikes. He stated: 'It is . . . not decisive in this case that the contracting parties may have intended that no breach of contract damage or other suits resulting from strikes should be lodged in courts of law, as certain provisions of the contract, as well as the contractual history, appears to suggest.' 117 N.L.R.B., at 1115."

Sincerely,



Mr. Justice Brennan

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

November 30, 1979

Re: No. 78-1183 - Carbon Fuel Co. v. UMW of America

Dear Bill:

Please join me.

Sincerely,

H.A.B.  
—

Mr. Justice Brennan

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

November 30, 1979

78-1183 Carbon Fuels Co v. United Mine Workers

Dear Bill:

Although I voted at Conference tentatively to reverse, I now believe I can join your opinion provided there is clarification of Part A.

Petitioner's contention, as I understand it, is that the "maintain-the-integrity" clause of the contract obligates the parent union to take all reasonable action necessary to control wildcat strikes, including imposition of discipline. Your discussion in Part B is quite convincing. You reason that when "the parties' agreement specifically resolves a particular issue, the courts cannot substitute a different resolution". And then you demonstrate - from the history of the present contract (including its construction by courts of appeals) - that the union intended to retain its freedom to decide what action to take in dealing with unauthorized strikes.

Part A concerns me because it might be construed, as I read it, as cutting back on Boy's Market and Gateway Coal - a result that I am sure you do not intend. You wrote Boy's Market and I wrote Gateway Coal. They hold that a no-strike obligation may be implied from a mandatory arbitration clause. Yet the language in the first paragraph of Part A seems to imply that the application of agency principles to labor law may define the contours of the no-strike obligation. Does this mean that the international and district unions could escape all responsibility for a called strike simply on the argument that they have no responsibility for the action of the local?

Perhaps I am wrong, but I would have thought that your Part B disposed of this case. Petitioner is not requesting arbitration, or indeed arguing that there was any time for arbitration in these wildcat strike situations.

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

December 6, 1979

78-1183 Carbon Fuel Co. v. Mine Workers

Dear Bill:

Thank you for your addition of note 5, which substantially meets my concern.

I also am glad that you are willing to accept Potter's suggested change on page 5 of your opinion.

Although I had some reservations about this case, I am now glad to join your opinion for the Court.

Sincerely,



Mr. Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

December 5, 1979

Re: No. 78-1183 Carbon Fuel Co. v. United Mine Workers of  
America

Dear Bill:

Please join me.

Sincerely,  
*WHR*

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

November 30, 1979

Re: 78-1183 - Carbon Fuel Co. v. United Mine  
Workers of America

Dear Bill:

Please join me.

Respectfully,



Mr. Justice Brennan

Copies to the Conference