

The Burger Court Opinion Writing Database

Central Machinery Co. v. Arizona Tax Commission

448 U.S. 160 (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

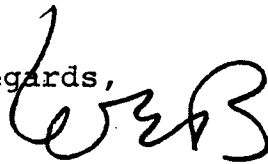
May 21, 1980

RE: 78-1604 - Central Machinery Co. v.
Arizona State Tax Commission

Dear Thurgood:

I join.

Regards,



Mr. Justice Marshall

Copies to the Conference

4

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 18, 1980

1

RE: No. 78-1604 Central Machinery Co. v. Arizona State
Tax Commission

Dear Thurgood:

I agree.

Sincerely,

Bill

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

March 17, 1980

Re: 78-1604 - Central Machinery v. Arizona

Dear Thurgood:

I shall in due course circulate a short
dissenting opinion.

Sincerely yours,

P.S.
✓

Mr. Justice Marshall

Copies to the Conference

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

From: Mr. Justice Stewart

Circulated: 19 MAY 1980

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1604

Central Machinery Company,
Appellant,
v.
Arizona State Tax Commission. } On Appeal from the Su-
preme Court of Arizona.

[May —, 1980]

MR. JUSTICE STEWART, dissenting.

The question before us is whether the appellant is immune from a state tax imposed on the proceeds of the sale by it of farm machinery to an Indian tribe. The Court concludes that an affirmative answer is required by the rationale of *Warren Trading Post Co. v. Arizona Tax Comm'n*, 380 U. S. 685, a case that is similar in some respects to this one. While I agree that *Warren Trading Post*, *supra*, states the relevant legal principles, I cannot agree that those principles lead to the result reached by the Court in this case. Accordingly, I dissent.

In *Warren Trading Post*, *supra*, the Court held that the State of Arizona may not impose the same tax involved here on the operator of a federally licensed retail trading business located on an Indian reservation. The Court determined that the "apparently all-inclusive [federal] regulations and the statutes authorizing them," *id.*, at 690, under which the trader in that case had been licensed, were "in themselves sufficient to show that Congress has taken the business of trading on reservations so fully in hand that no room remains for state laws imposing additional burdens on traders," *ibid.*

As the Court recognizes, the circumstances of this case differ from those presented by *Warren Trading Post*, *supra*. Specifically, the appellant here is not a licensed Indian trader and does not have a permanent place of business on the

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

From: Mr. Justice Stewart

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Recirculated: 21 MAY 1980

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1604

Central Machinery Company,
Appellant,
v.
Arizona State Tax Commission.

On Appeal from the Su-
preme Court of Arizona,

[May —, 1980]

MR. JUSTICE STEWART, with whom MR. JUSTICE POWELL,
MR. JUSTICE REHNQUIST, and MR. JUSTICE STEVENS join,
dissenting.

The question before us is whether the appellant is immune from a state tax imposed on the proceeds of the sale by it of farm machinery to an Indian tribe. The Court concludes that an affirmative answer is required by the rationale of *Warren Trading Post Co. v. Arizona Tax Comm'n*, 380 U. S. 685, a case that is similar in some respects to this one. While I agree that *Warren Trading Post*, *supra*, states the relevant legal principles, I cannot agree that those principles lead to the result reached by the Court in this case. Accordingly, I dissent.

In *Warren Trading Post*, *supra*, the Court held that the State of Arizona may not impose the same tax involved here on the operator of a federally licensed retail trading business located on an Indian reservation. The Court determined that the "apparently all-inclusive [federal] regulations and the statutes authorizing them," *id.*, at 690, under which the trader in that case had been licensed, were "in themselves sufficient to show that Congress has taken the business of trading on reservations so fully in hand that no room remains for state laws imposing additional burdens on traders," *ibid.*

As the Court recognizes, the circumstances of this case differ from those presented by *Warren Trading Post*, *supra*. Specifically, the appellant here is not a licensed Indian trader

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 20, 1980

Re: 78-1604 - Central Machinery Company
v. Arizona State Tax Commn.

Dear Thurgood,

Please join me.

Sincerely yours,



Mr. Justice Marshall

Copies to the Conference

cmc

14 MAR 1980

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1604

Central Machinery Company, Appellant, v. Arizona State Tax Commission.	}	On Appeal from the Supreme Court of Arizona.
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[March —, 1980]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

This case presents the question whether a State may tax the sale of farm machinery to an Indian tribe when the sale took place on an Indian reservation and was made by a corporation that did not reside on the reservation and was not licensed to trade with Indians.

I

Appellant is a corporation chartered by and doing business in Arizona. In 1973 it sold 11 farm tractors to Gila River Farms, an enterprise of the Gila River Indian Tribe. The Tribe is federally recognized and is governed by a constitution adopted pursuant to the Indian Reorganization Act, 25 U. S. C. § 476. Gila River Farms conducts farming operations on tribal and individual trust land within the Gila River Reservation, which was established in Arizona by the Act of February 28, 1859, ch. 66, 11 Stat. 388, 401.

Appellant's salesman solicited the sale of these tractors on the reservation, the contract was made there, and payment for and delivery of the tractors also took place there. Appellant does not have a permanent place of business on the reservation, and it is not licensed under 25 U. S. C. §§ 261-264 and 25 CFR Part 251 to engage in trade with Indians on reservations. The transaction was approved, however, by the Bureau of Indian Affairs.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 21, 1980

Re: No. 78-1604 - Central Machinery Company v.
Arizona State Tax Commission

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 15, 1980

78-1604 Central Machinery v. Arizona

Dear Thurgood:

In accordance with my vote at the Conference, I
will await the dissent.

Sincerely,

Lewis

Mr. Justice Marshall

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 Rehnquist
Mr. Justice Stevens

5-6-80

From: Mr. Justice Powell

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1st DRAFT

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SUPREME COURT OF THE UNITED STATES

Nos. 78-1604 AND 78-1177

Central Machinery Company, Appellant, 78-1604 v. Arizona State Tax Commission.	}	On Appeal from the Supreme Court of Arizona.
White Mountain Apache Tribe et al., Petitioners, 78-1177 v. Robert M. Bracker et al.		

On Writ of Certiorari to the Court of Appeals of Arizona, Division One.

[May —, 1980]

MR. JUSTICE POWELL, dissenting and concurring.

I write separately because I would distinguish *Central Machinery Co. v. Arizona State Tax Comm'n*, ante, at — (No. 78-1604), from *White Mountain Apache Tribe v. Bracker*, ante, at — (No. 78-1177). I agree with the Court that a non-Indian contractor continuously engaged in logging upon a reservation is subject to such pervasive federal regulation as to bring into play the pre-emption doctrine of *Warren Trading Post Co. v. Arizona Tax Comm'n*, 380 U. S. 685 (1965). But *Warren Trading Post* simply does not apply to routine state taxation of a non-Indian corporation that makes a single sale to reservation Indians. I therefore join the Court's opinion in *White Mountain Apache Tribe*, but I dissent from its decision in *Central Machinery*.

I

Central Machinery

Warren Trading Post held that Arizona could not levy its transaction privilege tax against a company regularly engaged in retail trading with the Indians upon a reservation. The

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

2,3

5-15-80

From: Mr. Justice Powell

2nd DRAFT

Circulated: _____

SUPREME COURT OF THE UNITED STATES

Revised: MAY 15 1980

Nos. 78-1604 AND 78-1177

Central Machinery Company, Appellant, 78-1604 v. Arizona State Tax Commission.	} On Appeal from the Supreme Court of Arizona.
White Mountain Apache Tribe et al., Petitioners, 78-1177 v. Robert M. Bracker et al.	

} On Writ of Certiorari to the Court of Appeals of Arizona, Division One.

[May —, 1980]

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Central Machinery

Warren Trading Post held that Arizona could not levy its transaction privilege tax against a company regularly engaged in retail trading with the Indians upon a reservation. The

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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 Rehnquist
Mr. Justice Stevens

P. 3

5-19-80

From: Mr. Justice Powell

3rd DRAFT

Circulated: _____

Recirculated: MAY 19 1980

SUPREME COURT OF THE UNITED STATES

Nos. 78-1604 AND 78-1177

Central Machinery Company, Appellant, 78-1604 v. Arizona State Tax Commission.	} On Appeal from the Supreme Court of Arizona.
White Mountain Apache Tribe et al., Petitioners, 78-1177 v. Robert M. Bracker et al.	
	} On Writ of Certiorari to the Court of Appeals of Arizona, Division One.

[May —, 1980]

MR. JUSTICE POWELL, dissenting and concurring.

I write separately because I would distinguish *Central Machinery Co. v. Arizona State Tax Comm'n*, ante, at — (No. 78-1604), from *White Mountain Apache Tribe v. Bracker*, ante, at — (No. 78-1177). I agree with the Court that a non-Indian contractor continuously engaged in logging upon a reservation is subject to such pervasive federal regulation as to bring into play the pre-emption doctrine of *Warren Trading Post Co. v. Arizona Tax Comm'n*, 380 U. S. 685 (1965). But *Warren Trading Post* simply does not apply to routine state taxation of a non-Indian corporation that makes a single sale to reservation Indians. I therefore join the Court's opinion in *White Mountain Apache Tribe*, but I dissent from its decision in *Central Machinery*.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 21, 1980

78-1604 Central Machinery v. Arizona State Tax Commission

Dear Potter:

Please add my name to your dissenting opinion.

Sincerely,

Lewis

Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 20, 1980

Re: No. 78-1604 Central Machinery Co. v. Arizona
State Tax Commission

Dear Potter:

Please join me in your dissent in this case.

Sincerely,



Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

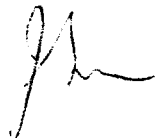
April 9, 1980

Re: 78-1604 - Central Machinery v. Arizona

Dear Thurgood:

As I should have written sometime ago, I am waiting for Potter's dissent.

Respectfully,



Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 19, 1980

Re: 78-1604 - Central Machinery v.
Arizona State Tax Comm'n

Dear Potter:

Please join me.

Respectfully,



Mr. Justice Stewart

Copies to the Conference