

The Burger Court Opinion Writing Database

Perrin v. United States
444 U.S. 37 (1979)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



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

From: The Chief Justice

Circulated NOV 2 1979

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-959

113
Vincent R. Perrin, Jr., Petitioner, v. United States. } On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[November —, 1979]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari to resolve a circuit conflict¹ on whether commercial bribery of private employees prohibited by state criminal statute constitutes "bribery . . . in violation of the laws of the State in which committed" within the meaning of the Travel Act, 18 U. S. C. § 1952.

三

Petitioner Vincent Perrin and four codefendants² were indicted in the Eastern District of Louisiana for violating the Travel Act, 18 U. S. C. § 1952, and for conspiring to violate the Act, 18 U. S. C. § 371. The Travel Act provides in part:

“(a) Whoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce, including the mail, with intent to—

¹ See *United States v. Brecht*, 540 F. 2d 45 (CA2 1976), cert. denied, 429 U. S. 1123 (1977) (holding no violation of the Travel Act); *United States v. Pomponio*, 511 F. 2d 953 (CA4), cert. denied, 423 U. S. 874 (1975) (holding a violation of the Travel Act).

² Also indicted with petitioner were Duffy LaFont, Jr., David Levy, Albert Izuel, and Jim Haddox. Proceedings against Izuel and Haddox were severed by the trial court, and the charges were subsequently dismissed.

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

CHAMBERS OF
THE CHIEF JUSTICE

November 7, 1979

PERSONAL

No. 79-959 - Perrin v. United States

Dear Lewis:

In response to the suggestions in your letter of November 6, I am quite willing to make the following two changes in the opinion.

In the second to the last paragraph of the opinion, the fourth sentence will be deleted and the final sentence altered to read:

"Until statutes such as the Travel Act contravene some provision of the Constitution, the choice is for Congress, not the courts."

Footnote 13 on page 12 was simply a bit of "advocacy" to emphasize that Nardello is largely dispositive. I had it marked for abandonment once a court was in sight. There really is no basic difference between bribery and extortion except as to which side is the instigator. Precisely the same acts can be bribery for one person and extortion for another. But I am quite content to drop it unless someone else complains.

Regards,

W. B.

Mr. Justice Powell

These were
made in
2nd Draft
WTP

STYLISTIC CHANGES

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

From: The Chief Justice

Circulated: _____

Recirculated: NOV 9 197

2nd DRAFT**SUPREME COURT OF THE UNITED STATES**

 No. 78-959

Vincent R. Perrin, Jr., Petitioner, | On Writ of Certiorari to
 v, | the United States Court
 United States. | of Appeals for the Fifth
 Circuit.

[November —, 1979]

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CHANGES AS MARKED:

pp 4, 12, 13

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

From: The Chief Justice

Circulated: _____

Recirculated: NOV 21 19

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-959

14
Vincent R. Perrin, Jr., Petitioner, | On Writ of Certiorari to
v, | the United States Court
United States. | of Appeals for the Fifth
Circuit.

[November —, 1979]

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

CHAMBERS OF
THE CHIEF JUSTICE

November 29, 1979

MEMORANDUM TO THE CONFERENCE

Re: Cases held for No. 78-959 - Perrin v. United States

Two cases have been held for Perrin:

No. 78-5855 - Levy v. United States, and
No. 78-5930 - LaFont v. United States

Petitioners in both cases were co-defendants with Perrin, and all three were tried together in the District Court. They were also co-appellants in the appeal to the Fifth Circuit. The cases were consolidated (curved line) when they first came to this Court.

Therefore, the underlying factual circumstances in the two held cases are substantially the same as the fact situation in Perrin. Moreover, in both, petitioners have raised the single issue, identical to that decided in Perrin, of "whether commercial bribery of a nonpublic individual, a misdemeanor, as defined in 14 La. R.S. 73, is embraced within the meaning of the term bribery as used in the Travel Act, 18 U.S.C. § 1952." Neither petition raises any additional issues.

I would now simply deny the petitions.

Regards,

Crab

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

November 5, 1979

RE: No. 78-959 Perrin v. United States

Dear Chief:

I agree.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

November 20, 1979

Re: No. 78-959, Perrin v. United States

Dear Chief,

I am glad to join your opinion for the
Court.

Sincerely yours,

P.S.

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

November 9, 1979

Re: 78-959 - Perrin v. United States

Dear Chief,

Please show at the foot of your opinion that I took no part in the decision of this case.

Sincerely yours,



The Chief Justice
Copies to the Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 8, 1979

Re: No. 78-959 - Perrin v. United States

Dear Chief:

Please join me.

Sincerely,

T.M.
T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

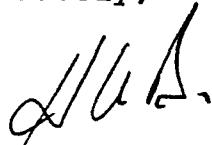
November 5, 1979

Re: No. 78-959 - Perrin v. United States

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

HAB

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

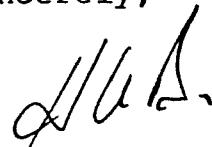
November 5, 1979

Re: No. 78-959 - Perrin v. United States

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

[note to The Chief Justice only]

Is not Byron out of the "disposition" of this case? I think it would be more accurate to say, in the first line of the second paragraph on page 13, that the sufficiency of the interstate nexus is "no longer" at issue. I say this because a challenge on that ground was raised below.

November 6, 1979

78-959 Perrin v. United States

Dear Chief:

I have written you a separate "join" note, with copies to the Conference.

This is an additional note to make two observations that possibly you may wish to consider.

In the next to the last paragraph on page 13, the following sentences caught my attention:

"It may be that legislation like the 1961 Travel Act and the other federal statutes cited run counter to early concepts of federalism. However, until such statutes contravene some provision of the federal Constitution, the choice is for Congress, and not the courts."

One might imply that statutes inconsistent with federalism are valid unless they contravene some express provision of the federal Constitution. Although it may be a bit old fashioned, I still believe that a federal statute can be so incompatible with concepts of federalism that it would be invalid as contravening the Tenth Amendment. I am afraid the first of these two sentences, read in isolation, might be cited subsequently in support of an anti-federalism argument. The sentence is not at all necessary to the rationale of your opinion.

Footnote 13 on the preceding page puzzles me, perhaps because I really don't understand its relevance. But, as you would say, I am not excited about it.

Sincerely,

The Chief Justice

lfp/ss

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

November 6, 1979

78-959-Perrin v. United States

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20542

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

November 5, 1979

Re: No. 78-959 - Perrin v. United States

Dear Chief:

I voted in dissent at Conference, and will shortly let you know whether I will try to write anything in that vein.

Sincerely,



The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

November 21, 1979

Re: No. 78-959 - Perrin v. United States

Dear Chief:

Please join me.

Sincerely,

WHR

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

November 5, 1979

Re: 78-959 - Perrin v. United States

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

Copies to the Conference