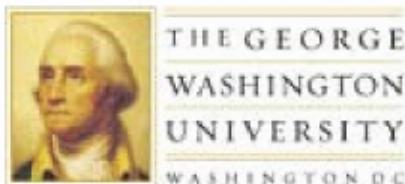


The Burger Court Opinion Writing Database

Marshall v. Jerrico, Inc.

446 U.S. 238 (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

April 24, 1980

Re: 79-253 - Marshall v. Jerrico

Dear Thurgood:

I join.

Regards,

Mr. Justice Marshall

Copies to the Conference

Not just good, especially good!

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

April 21, 1980

RE: No. 79-253 Marshall v. Jerrico, Inc.

Dear Thurgood:

I agree.

Sincerely,



Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 21, 1980

Re: 79-253 - Marshall v. Jerrico, Inc.

Dear Thurgood:

I am glad to join your opinion for the Court.

Sincerely yours,

P.S.

Mr. Justice Marshall

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 22, 1980

Re: No. 79-253 - Marshall v. Jerrico, Inc.

Dear Thurgood,

Please join me.

Sincerely yours,



Mr. Justice Marshall

Copies to the Conference

cmc

17 APR 1980

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-253

Ray Marshall, Secretary of Labor,
et. al., Appellants,
v.
Jerrico, Inc. } On Appeal from the United
States District Court for
the District of Columbia.

[April —, 1980]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Under § 16 (e) of the Fair Labor Standards Act, 29 U. S. C. § 216 (e), sums collected as civil penalties for the unlawful employment of child labor are returned to the Employment Standards Administration (ESA) of the Department of Labor in reimbursement for the costs of determining violations and assessing penalties. The question for decision is whether this provision violates the Due Process Clause of the Fifth Amendment by creating an impermissible risk of bias in the Act's enforcement and administration.

I

The child labor provisions of federal law are primarily contained in § 12 of the Fair Labor Standards Act, 52 Stat. 1060, as amended, 29 U. S. C. § 212. The Secretary of Labor has designated the ESA as the agency responsible for enforcing these provisions, 36 Fed. Reg. 8755 (1971). The ESA in turn carries out its responsibilities through regional offices, and the assistant regional administrator of each office has been charged with the duty of determining violations and assessing penalties.

Appellee Jerrico, Inc., is a Delaware corporation that manages approximately 40 restaurants in Kentucky, Indiana, Tennessee, Georgia, and Florida. In a series of investiga-

stylistic changes throughout
also see pp 3, 9, 11

23 APR 1980

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-253

Ray Marshall, Secretary of Labor,
et. al., Appellants,
v.
Jerrico, Inc. } On Appeal from the United
States District Court for
the District of Columbia.

[April —, 1980]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

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一

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Appellee Jerrico, Inc., is a Delaware corporation that manages approximately 40 restaurants in Kentucky, Indiana, Tennessee, Georgia, and Florida. In a series of investiga-

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 22, 1980

Re: No. 79-253 - Marshall v. Jerrico, Inc.

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.

April 21, 1980

No. 79-253 Marshall v. Jerrico, Inc.

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

LFP/lab

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 22, 1980

Re: No. 79-253 Marshall v. Jerrico, Inc.

Dear Thurgood:

Please join me.

Sincerely,

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 21, 1980

Re: 79-253 - Marshall v. Jerrico

Dear Thurgood:

Please join me.

Respectfully,



Mr. Justice Marshall

Copies to the Conference