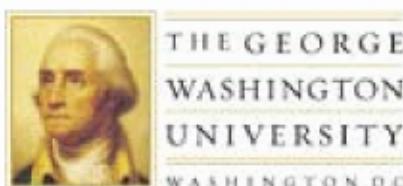


The Burger Court Opinion Writing Database

Standefer v. United States

447 U.S. 10 (1980)

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



7/27/79
Wang
WANG DRAFT

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

STANDEFER v. UNITED STATES, No. 79-383

From: The Chief Justice

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

Circulated: MAY 27 1980

Recirculated: _____

We granted certiorari in this case to decide whether a defendant accused of aiding and abetting in the commission of a federal offense may be convicted after the named principal has been acquitted of that offense.

I.

In June 1977, petitioner Standefer was indicted on four counts of making gifts to a public official, in violation of 18 U.S.C. § 201(f), and on five counts of aiding and abetting a revenue official in accepting compensation in addition to that authorized by law, in violation of 26 U.S.C. § 7214(a)(2) and 18 U.S.C. § (2).¹ The indictment charged that petitioner, as

¹ 18 U.S.C. § 201(f) provides, in relevant part, as follows:

Whoever, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly gives, offers, or promises anything of value to any public official ... for or because of any official act performed or to be performed by such public official ... [is guilty of an offense].

26 U.S.C. § 7214(a)(2) punishes:

Any officer or employee of the United States acting in connection with any revenue law of the United States * * * who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty.

18 U.S.C. § 2 provides in relevant part:

Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

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: _____

1st PRINTED DRAFT

Recirculated: JUN 4 1980

SUPREME COURT OF THE UNITED STATES

No. 79-383

F. W. Standefer, Petitioner, *v.* United States. } On Writ of Certiorari to the
United States Court of Appeals for the Third Circuit.

[June —, 1980]

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

We granted certiorari in this case to decide whether a defendant accused of aiding and abetting in the commission of a federal offense may be convicted after the named principal has been acquitted of that offense.

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¹ 18 U. S. C. § 201 (f) provides, in relevant part, as follows:

"Whoever, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly gives, offers, or promises anything of value to any public official . . . for or because of any official act performed or to be performed by such public official . . . [is guilty of an offense]."

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CHANGES AS MARKED:

4, 6, 7, 10, 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: JUN 6 1980

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-383

F. W. Standefer, Petitioner, | On Writ of Certiorari to the
v, | United States Court of Ap-
United States. | peals for the Third Circuit.

[June —, 1980]

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

We granted certiorari in this case to decide whether a defendant accused of aiding and abetting in the commission of a federal offense may be convicted after the named principal has been acquitted of that offense.

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

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

December 13, 1979

RE: No. 79-383 Standefer v. United States

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

May 28, 1980

RE: No. 79-383 Standefer 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

May 28, 1980

Re: 79-383 - Standefer 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

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

From: Mr. Justice White

Circulated: 13 DEC 1979

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

F. W. STANDEFER *v.* UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 79-383. Decided December —, 1979

MR. JUSTICE WHITE, dissenting.

This case raises the question whether petitioner's conviction of aiding and abetting the commission of an offense can stand even though the person aided and abetted has previously been acquitted. The Court of Appeals for the Third Circuit, sitting en banc, affirmed petitioner's conviction. In the view of the Court of Appeals, neither the general aiding and abetting statute, 18 U. S. C. § 2, nor our decision in *Shuttlesworth v. City of Birmingham*, 373 U. S. 262 (1963), required that petitioner's conviction be reversed in light of the prior acquittal of the principal. In contrast, the Court of Appeals for the Fourth Circuit, relying on *Shuttlesworth*, has decided that an aiding and abetting conviction cannot stand alongside an acquittal of the principal, regardless of the order in which the two prosecutions are brought. *United States v. Shuford*, 454 F. 2d 772, 779 (CA4 1971); *United States v. Prince*, 430 F. 2d 1324 (CA4 1970).

The conflict between the circuits is clear. I would grant this petition for certiorari to resolve the conflict and dissent from the Court's refusal to do so.

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

From: Mr. Justice White

Circulated: _____

2nd DRAFT

Recirculated: 12-21-79

SUPREME COURT OF THE UNITED STATES

F. W. STANDEFER *v.* UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 79-383. Decided December —, 1979

MR. JUSTICE WHITE, with whom MR. JUSTICE BRENNAN /
and MR. JUSTICE POWELL join, dissenting.

This case raises the question whether petitioner's conviction of aiding and abetting the commission of an offense can stand even though the person aided and abetted has previously been acquitted. The Court of Appeals for the Third Circuit, sitting en banc, affirmed petitioner's conviction. In the view of the Court of Appeals, neither the general aiding and abetting statute, 18 U. S. C. § 2, nor our decision in *Shuttlesworth v. City of Birmingham*, 373 U. S. 262 (1963), required that petitioner's conviction be reversed in light of the prior acquittal of the principal. In contrast, the Court of Appeals for the Fourth Circuit, relying on *Shuttlesworth*, has decided that an aiding and abetting conviction cannot stand alongside an acquittal of the principal, regardless of the order in which the two prosecutions are brought. *United States v. Shuford*, 454 F. 2d 772, 779 (CA4 1971); *United States v. Prince*, 430 F. 2d 1324 (CA4 1970).

The conflict between the circuits is clear. I would grant this petition for certiorari to resolve the conflict and dissent from the Court's refusal to do so.

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 28, 1980

Re: 79-383 - Standefer v. United States

Dear Chief,

Please join me.

Sincerely yours,



The Chief Justice

Copies to the Conference

cmc

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 28, 1980

Re: No. 79-383 - Standefer 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

May 29, 1980

Re: No. 79-383 - Standefer v. United States

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

December 19, 1979

No. 79-383 Standefer v. United States

Dear Byron:

Please add my name to your dissent.

Sincerely,



Mr. Justice White

Copies to the Conference

LFP/lab

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 28, 1980

79-383 Standefer v. United States

Dear Chief:

Please join me.

Sincerely,

Lewis

The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 28, 1980

79-383
Standefer v. United States

Dear Chief:

Please join me.

Sincerely,

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 28, 1980

Re: No. 79-383 STANDEFER v. UNITED STATES

Dear Chief:

Please join me.

Respectfully,



Mr. Chief Justice
Copies to Conference