The Burger Court Opinion Writing Database

Maine v. Thiboutot

448 U.S. 1 (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 29, 1980

RE: 79-838 - Maine v. Thiboutot

Dear Lewis:

Are you willing to do a dissent in this case?

Regards,

Mr. Justice Powell

cc: Mr. Justice Rehnquist

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

CHAMBERS OF
THE CHIEF JUSTICE

June 19, 1980

Re: 79-838 - State of Maine v. Thiboutot

Dear Lewis:

I join your dissent.

Regards,

WEB

Mr. Justice Powell

Copies to the Conference

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

From: Mr. Justice Brenn

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-838

State of Maine et al., Petitioners, v. Joline Thiboutot, et vir, etc. | On Writ of Certiorari to the Supreme Judicial Court of Maine.

[June —, 1980]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

The case presents two related questions arising under 42 U. S. C. §§ 1983 and 1988. Respondents brought this suit in the Maine Superior Court alleging that petitioners, the State of Maine and its Commissioners of Human Resources, violated § 1983 by depriving respondents of welfare benefits to which they were entitled under the federal Social Security Act, specifically 42 U. S. C. § 602 (a)(7). The petitioners present two issues: (1) whether § 1983 encompasses claims based on purely statutory violations of federal law, and (2) if so, whether attorney's fees under § 1988 may be awarded to the prevailing party in such an action.[1]

I

Respondents, Lionel and Joline Thiboutot, are married and have eight children, three of whom are Lionel's by a previous marriage. The Maine Department of Human Services notified Lionel that, in computing the AFDC benefits to which he was entitled for the three children exclusively his, it would

[1] Petitioners also argue that jurisdiction to hear § 1983 claims rests exclusively with the federal courts. Any doubt that state courts may also entertain such actions was dispelled by *Martinez* v. *California*, — U. S. — (1980), slip op., at 5–6, n. 7. There, while reserving the question whether state courts are *obligated* to entertain § 1983 actions, we held that Congress has not barred them from doing so.

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 6

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

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-838

State of Maine et al., Petitioners, v. Joline Thiboutot, et vir, etc. | On Writ of Certiorari to the Supreme Judicial Court of Maine.

[June —, 1980]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

The case presents two related questions arising under 42 U. S. C. §§ 1983 and 1988. Respondents brought this suit in the Maine Superior Court alleging that petitioners, the State of Maine and its Commissioner of Human Resources, violated § 1983 by depriving respondents of welfare benefits to which they were entitled under the federal Social Security Act, specifically 42 U. S. C. § 602 (a)(7). The petitioners present two issues: (1) whether § 1983 encompasses claims based on purely statutory violations of federal law, and (2) if so, whether attorney's fees under § 1988 may be awarded to the prevailing party in such an action.[1]

I

Respondents, Lionel and Joline Thiboutot, are married and have eight children, three of whom are Lionel's by a previous marriage. The Maine Department of Human Services notified Lionel that, in computing the AFDC benefits to which he was entitled for the three children exclusively his, it would

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 20, 1980

Re: No. 79-838, Maine v. Thiboutot

Dear Bill,

I am glad to join your opinion for the Court.

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 21, 1980

Re: 79-838 - Maine v. Thiboutot

Dear Bill,

Please join me.

Sincerely yours,

Byron

Mr. Justice Brennan

Copies to the Conference

cmc

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 19, 1980

Re: No. 79-838 - State of Maine v. Thiboutot

Dear Bill:

Please join me.

Sincerely,

T.M.

T.M.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 29, 1980

Re: No. 79-838 - Maine v. Thiboutot

Dear Bill:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 21, 1980

79-838 Maine v. Thiboutot

Dear Bill:

You will not be surprised to have me confirm that I will write a "few lines" in restrained dissent.

Sincerely,

Lewis

Mr. Justice Brennan

lfp/ss

cc: The Conference

79-838 Mentor circulated?

(WHR) 6/16/80

Bill,

This draft elaborates considerably on what I wrote in Chapman. Further study - by me as well as a new "crop" of Clerks - convinces me even more strongly that the Court's error is egregious!

Please be on the look-out, as you read the draft, for weaknesses (in my draft) or over-statements of the possible result of the Court's decision.

Also, take a close look at what I say about federal jurisdiction - as you are my mentor in that area.

Many thanks.

Lewis

P.S. The draft has not been read by all of my Clerks in its present form. I therefore may have some further minor editing.

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

From: Mr. Justice Powell

Circulated: JUN 17 1980

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FIRST DRAFT

No. 79-838, Maine v. Thiboutot

MR. JUSTICE POWELL, dissenting.

The Court holds today, almost casually, that 42 U.S.C. § 1983 creates a cause of action for deprivations under color of state law of any federal statutory right. Having transformed purely statutory claims into "civil rights" actions under § 1983, the Court concludes that 42 U.S.C. § 1988 permits the "prevailing party" to recover his attorney's fees. These two holdings dramatically expand the liability of state and local officials and may virtually eliminate the "American Rule" in suits against those officials.

The Court's opinion reflects little consideration of the consequences of its judgment. It relies upon the "plain" meaning of the phrase "and laws" in § 1983 and upon this Court's assertedly "consistent treatment" of that statute. Ante, at 3, 5. But the reading adopted today is anything but "plain" when the statutory language is placed in historical context. Moreover, until today this Court never had held that § 1983 encompasses all purely statutory claims. Past treatment of the subject has been incidental and far from consistent. The only firm basis for

1, 9, 22

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

6-20-80

PRINTED

1st DRAFT

From: Mr. Justice Powell

Circulated: JUN 20 1980

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 79-838

State of Maine et al., Petitioners, v. Joline Thiboutot, et vir, etc. | On Writ of Certiorari to the Supreme Judicial Court of Maine.

[June —, 1980]

MR. JUSTICE POWELL, with whom the CHIEF JUSTICE and MR. JUSTICE REHNQUIST join, dissenting.

The Court hold today, almost casually, that 42 U. S. C. § 1983 creates a cause of action for deprivations under color of state law of any federal statutory right. Having transformed purely statutory claims into "civil rights" actions under § 1983, the Court concludes that 42 U. S. C. § 1988 permits the "prevailing party" to recover his attorney's fees. These two holdings dramatically expand the liability of state and local officials and may virtually eliminate the "American Rule" in suits against those officials.

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Part I of this opinion examines the Court's claim that it only construes the "plain meaning" of § 1983, while Part II

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 20, 1980

Re: No. 79-838 State of Maine v. Thiboutot

Dear Bill:

I shall await the dissent in this case.

Sincerely,

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 18, 1980

Re: No. 79-838 Maine v. Thiboutot

Dear Lewis:

Please join me in your dissenting opinion.

Sincerely,

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 19, 1980

Re: 79-838 - Maine v. Thiboutot

Dear Bill:

Please join me.

Respectfully,

John

Mr. Justice Brennan

Copies to the Conference