

The Burger Court Opinion Writing Database

United States v. Louisiana

446 U.S. 253 (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 14, 1980

Re: No. 9 Original - United States v. Louisiana

Dear Harry:

I am content with the proposed disposition in your memorandum of April 14. I do not believe we should open or close the compensation issue.

Regards,



Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

April 24, 1980

Re: No. 9 Original - United States v. Louisiana

Dear Harry:

I join.

Regards,

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

April 15, 1980

RE: No. 9 Orig. United States v. Louisiana

Dear Harry:

I agree with your proposed form of order.

Sincerely,



Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 17, 1980

RE: No. 9 Orig. United States v. Louisiana

Dear Harry:

I agree.

Sincerely,

Bill

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 15, 1980

Re: No. 9 Original - United States v. Louisiana

Dear Harry,

The order you propose in this case seems fine to me,
and I am in favor of retaining the penultimate sentence.

Sincerely yours,

BS.
✓

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 21, 1980

Re: No. 9, Original - United States v.
Louisiana

Dear Lewis,

Please add my name to your separate
opinion.

Sincerely yours,

P.S.
1/

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 16, 1980

Re: No. 9 Original - U. S. v. Louisiana

Dear Harry,

The order suggested in your April 16
memo looks good to me.

Sincerely yours,



Mr. Justice Blackmun
Copies to the Conference
cmc

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 22, 1980

Re: No. 9, Original - U.S. v. Louisiana

Dear Harry,

Please join me.

Sincerely yours,



Mr. Justice Blackmun

Copies to the Conference

cmc

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 16, 1980

Re: No. 9 Orig. - United States v. State of
Louisiana, et al.

Dear Harry:

When you get to the final draft in this one,
please show me as not having participated.

Sincerely,

JM
T.M.

Mr. Justice Blackmun

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 14, 1980

MEMORANDUM TO THE CONFERENCE

Re: No. 9 Original - United States v. Louisiana

At the conference of April 11, the Special Master's petition for allowance of compensation and expenses and for discharge was relisted to me. I therefore assume that I was to come up with some suggestion as to the form of an order on Mr. Armstrong's petition.

I put together a somewhat detailed order, outlining the prior allowance in 1975 of compensation and expenses, the rendition of services since that time and through the filing of the Supplemental Report of August 27, 1979, and the parties' agreement to the amount of the suggested fee and expenses and to sharing the allowances equally.

In checking back into the Court's Journal for the 1974 Term, however, I found that at least the Journal reflects the entry of a very simple and, in a way, uninformative order. If we follow the 1975 form now, we would have an order reading substantially as follows:

"The motion of the Special Master for allowance of additional compensation and reimbursement of additional expenses is granted, and it is ordered that such costs be borne equally by the parties to this litigation. The Court defers action at this time on the Special Master's suggestion for discharge. Mr. Justice Marshall took no part in the consideration or decision of this motion."

Subject to Mr. Rodak's approval, I think this short form will do the job. If anyone feels that the next to the last sentence of the proposed order will intimate anything about the forthcoming ruling on the controversy over the accounts, that sentence, of course, may be omitted.

Page 2.

Alternatively, any order could be withheld until after the disposition of the pending controversy. I included the next to the last sentence because I suspect that Mr. Rodak has the motion for discharge on his docket and would desire at least a mention of it.

I am sending a copy of this memorandum to Mr. Rodak. I anticipate that if he finds it unacceptable or objectionable in any respect, he will let his views be known.

MRD

cc: Mr. Michael Rodak

Supreme Court of the United States
Washington, D. C. 20549

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 16, 1980

MEMORANDUM TO THE CONFERENCE

Re: No. 9 Original - United States v. Louisiana

Mr. Rodak has made one suggestion for the form of the proposed order that I think is a good one. I therefore now offer the following:

"The motion of the Special Master, Walter P. Armstrong, Jr., for allowance of additional compensation and reimbursement of expenses, as set forth in the motion, is granted, and it is ordered that such costs be borne equally by the United States and Louisiana. The Court defers action at this time on the Special Master's suggestion for discharge with respect to the reference of October 25, 1975 (423 U.S. 909).

"MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion."

Mr. Rodak's suggestion related to the specific naming of the United States and Louisiana. This was because other States are involved under No. 9 Original and further action with respect to their aspects of the litigation will be forthcoming. He also told me that Mr. Armstrong had advised him that he is willing to carry on and that he has not suggested that he be relieved.

Perhaps we might consider, now that Louisiana is phasing out, having a new title or titles, and new original numbers, for the Mississippi, et al. aspects of the litigation. There is sufficient confusion as it is. Mike tells me that this could be done without much complication in his records.

Harry

To: The Chief Justice
Mr. Justice BREWSTER
Mr. Justice STONE
Mr. Justice WHITING
Mr. Justice MARSHALL
Mr. Justice POWELL
Mr. Justice REHNQUIST
Mr. Justice STEVENS

From: Mr. Justice BLACKMUN

Circulated: APR 16 1980

Recirculated: APR 16 1980

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 0, Orig.

United States, Plaintiff, |
v. | On Bill of Complaint.
State of Louisiana et al. |

[April —, 1980]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

We are concerned here with certain features of what appears to be the final stage of the long-continuing and sometimes strained controversy between the United States and the State of Louisiana over the proceeds of mineral leases on lands off Louisiana's Gulf Coast. Specifically at issue are the asserted obligation of the United States for interest on, or for the value of the use of, impounded funds that have been awarded and paid to Louisiana, and the asserted obligation of Louisiana to account to the United States for certain unimpounded lease revenues received by the State.

Litigation between the United States and the State of Louisiana over rights in lands submerged in the Gulf of Mexico off the Louisiana coast began over 30 years ago, in 1948, when the United States moved this Court, under its original jurisdiction, for leave to file a complaint. The Government prayed for a decree (a) declaring rights of the United States as against Louisiana over lands "underlying the Gulf of Mexico, lying seaward of the ordinary low-water mark on the coast of Louisiana and outside of the inland waters, extending seaward twenty-seven marine miles and bounded on the east and west, respectively, by the eastern and western boundaries of the State of Louisiana," and (b) requiring that Louisiana account to the United States for money received by the State after June 23, 1947, from the area so designated.

To: The Chief Justice
Mr. Justice BREWSTER
Mr. Justice STEPHENS
Mr. Justice WHITING
Mr. Justice MARSHALL
Mr. Justice POWELL
Mr. Justice REHNQUIST
Mr. Justice BLACKMUN

From: Mr. Justice BLACKMUN

Circulated:

Recirculated: APR 13 1980

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 9, Orig.

United States, Plaintiff,
v.
State of Louisiana et al. } On Exceptions to Supplemental Re-
port of Special Master.

[April —, 1980]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

We are concerned here with certain features of what appears to be the final stage of the long-continuing and sometimes strained controversy between the United States and the State of Louisiana over the proceeds of mineral leases on lands off Louisiana's Gulf Coast. Specifically at issue are the asserted obligation of the United States for interest on, or for the value of the use of, impounded funds that have been awarded and paid to Louisiana, and the asserted obligation of Louisiana to account to the United States for certain unimpounded lease revenues received by the State.

¶

Litigation between the United States and the State of Louisiana over rights in lands submerged in the Gulf of Mexico off the Louisiana coast began over 30 years ago, in 1948, when the United States moved this Court, under its original jurisdiction, for leave to file a complaint. The Government prayed for a decree (a) declaring rights of the United States as against Louisiana over lands "underlying the Gulf of Mexico, lying seaward of the ordinary low-water mark on the coast of Louisiana and outside of the inland waters, extending seaward twenty-seven marine miles and bounded on the east and west, respectively, by the eastern and western boundaries of the State of Louisiana," and (b) requiring that Louisiana account to the United States for money received by

STYLING CHANGES
pp. 1 and 19

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 15, 1980

No. 9 Orig. United States v. Louisiana

Dear Harry:

Your proposed order looks fine to me.

Sincerely,



Mr. Justice Blackmun

lfp/ss

cc: The Conference

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

Mr. Justice Powell
APR 2 1980

4-18-80

Circulated:

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 9, Orig.

United States, Plaintiff, | On Exceptions to Supplemental Re-
v. | port of Special Master.
State of Louisiana et al.

[April —, 1980]

MR. JUSTICE POWELL, concurring in part and dissenting in part.

I concur in the Court's opinion except with respect to its disposition of the "second stated issue." *Ante*, at 13-18. As framed by the Special Master, the second issue is whether Louisiana has "the obligation to account for revenues received by it from mineral leases on areas lying within Zone 1. . . ." *Id.*, at 7. The Special Master found that the State had no such obligation. The United States filed an exception, and the Court sustains it.

I would accept the recommendations of the Master on all three issues, including his finding that Louisiana has no obligation to account for revenues derived from Zone 1. The latter finding certainly is not free from doubt, but the able Master has a more intimate familiarity with this "long-continuing and sometimes strained controversy," *id.*, at 1, than an appellate judge possibly can acquire by studying only the available record. Although we have the duty to make an independent judgment, I cannot conclude that the Master's finding on the second stated issue is erroneous. Accordingly, I dissent on this issue.

Justice

4-22-80

2nd DRAFT

APR 22 1980

SUPREME COURT OF THE UNITED STATES

No. 9, Orig.

United States, Plaintiff,
v.
State of Louisiana et al. } On Exceptions to Supplemental Re-
port of Special Master.

[April —, 1980]

MR. JUSTICE POWELL, with whom MR. JUSTICE STEWART joins, concurring in part and dissenting in part.

I concur in the Court's opinion except with respect to its disposition of the "second stated issue." *Ante*, at 13-18. As framed by the Special Master, the second issue is whether Louisiana has "the obligation to account for revenues received by it from mineral leases on areas lying within Zone 1. . . ." *Id.*, at 7. The Special Master found that the State had no such obligation. The United States filed an exception, and the Court sustains it.

I would accept the recommendations of the Master on all three issues, including his finding that Louisiana has no obligation to account for revenues derived from Zone 1. The latter finding certainly is not free from doubt, but the able Master has a more intimate familiarity with this "long-continuing and sometimes strained controversy," *id.*, at 1, than an appellate judge possibly can acquire by studying only the available record. Although we have the duty to make an independent judgment, I cannot conclude that the Master's finding on the second stated issue is erroneous. Accordingly, I dissent on this issue.

Mr. Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Rehnquist
Mr. Justice Black
Mr. Justice Powell

Mr. Justice Powell

4-24-80

Circulated:

3rd DRAFT

Recirculated:

SUPREME COURT OF THE UNITED STATES

4/24/80

No. 9, Orig.

United States, Plaintiff,
v.
State of Louisiana et al. } On Exceptions to Supplemental Re-
port of Special Master.

[April —, 1980]

MR. JUSTICE POWELL, with whom MR. JUSTICE STEWART and MR. JUSTICE REHNQUIST join, concurring in part and dissenting in part.

I concur in the Court's opinion except with respect to its disposition of the "second stated issue." *Ante*, at 13-18. As framed by the Special Master, the second issue is whether Louisiana has "the obligation to account for revenues received by it from mineral leases on areas lying within Zone 1. . . ." *Id.*, at 7. The Special Master found that the State had no such obligation. The United States filed an exception, and the Court sustains it.

I would accept the recommendations of the Master on all three issues, including his finding that Louisiana has no obligation to account for revenues derived from Zone 1. The latter finding certainly is not free from doubt, but the able Master has a more intimate familiarity with this "long-continuing and sometimes strained controversy," *id.*, at 1, than an appellate judge possibly can acquire by studying only the available record. Although we have the duty to make an independent judgment, I cannot conclude that the Master's finding on the second stated issue is erroneous. Accordingly, I dissent on this issue.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 15, 1980

Re: No. 9 - Orig. - United States v. Louisiana

Dear Harry:

I am content with the proposed disposition in
your memorandum of April 14th.

Sincerely,

W

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 22, 1980

Re: No. 9 - Orig. - United States v. Louisiana

Dear Lewis:

Please add my name to your separate opinion.

Sincerely,

WR

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 14, 1980

Re: No. 9 Original

Dear Harry:

The form of order you propose in your memorandum of April 14 has my support. If others feel we should omit the next to the last sentence, that would also be acceptable to me, although I prefer it the way you have it.

Respectfully,



Mr. Justice Blackmun

Copies to Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 17, 1980

Re: 9 Original - United States v. Louisiana

Dear Harry:

Please join me.

Respectfully,



Mr. Justice Blackmun

Copies to the Conference