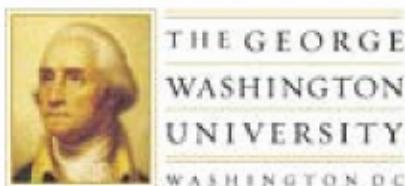


# The Burger Court Opinion Writing Database

*Zipes v. Trans World Airlines, Inc.*  
455 U.S. 385 (1982)

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

May 13, 1981

RE: (78-1545) - Zipes v. TWA, Inc.  
(78-1549) - TWA, Inc. v. Zipes  
(80-951) - Ind. Fed. of Flight Attendants  
v. TWA

Dear Byron,

I join.

Regards,

WB

Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

May 13, 1981

RE: Nos. 78-1545, 1549 and 80-951 Zipes v. TWA; Ind.  
Fed. of Flight Attendants v. TWA

Dear Byron:

I too agree with your recommendation and proposed Order in the above. Your memorandum was certainly most persuasive as well as very complete.

Sincerely,

*Bill*

Justice White

cc: The Conference

I am voted to Grant.  
The issue of whether a settlement  
can include those who may be  
jurisdictionally barred is an  
interesting one. And there seems  
to be some conflict about this.  
I would grant. PS

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: J-1-81

Recirculated: \_\_\_\_\_

No. 78-1545, Zipes, et al. v. Trans World Airlines, Inc. &

No. 80-951, Independent Federation of Flight Attendants v. Trans  
World Airlines, Inc., et al.

JUSTICE WHITE, dissenting.

*Add my  
name  
LFP*

Certiorari should be granted in this case to consider whether the timely filing of a charge of discrimination with the EEOC is a jurisdictional prerequisite to a Title VII suit, and, if so, whether the Court of Appeals erred in affirming the District Court's approval of the settlement of jurisdictionally barred claims.

In 1970 Ann Zipes filed a Title VII class action challenging TWA's policy of terminating female flight attendants who became mothers. The District Court granted summary judgment in favor of the plaintiff class, and the Court of Appeals upheld the summary judgment on the merits but concluded that approximately 92% of the plaintiffs' claims were jurisdictionally barred because those plaintiffs had not filed timely charges of discrimination with the EEOC.<sup>1</sup> The Court of Appeals' mandate was

<sup>1</sup>Plaintiffs argued that TWA had waived the timeliness defense by failing to plead it affirmatively in its answer. Therefore, the court considered whether the time period for filing charges with the EEOC "is in the nature of a statute of limitations, in which case the doctrine of waiver and estoppel

You and WTR have  
joined. PS

STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES:

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: \_\_\_\_\_

1st PRINTED DRAFT

Recirculated: 3-3-81

## SUPREME COURT OF THE UNITED STATES

ANNE B. ZIPES ET AL. v. TRANS WORLD AIRLINES,  
INC., and INDEPENDENT FEDERATION OF  
FLIGHT ATTENDANTS v. TRANS WORLD  
AIRLINES, INC., ET AL.

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Nos. 78-1545 and 80-951. Decided March —, 1981

JUSTICE WHITE, dissenting.

Certiorari should be granted in this case to consider whether the timely filing of a charge of discrimination with the EEOC is a jurisdictional prerequisite to a Title VII suit, and, if so, whether the Court of Appeals erred in affirming the District Court's approval of the settlement of jurisdictionally barred claims.

In 1970 Ann Zipes filed a Title VII class action challenging TWA's policy of terminating female flight attendants who became mothers. The District Court granted summary judgment in favor of the plaintiff class, and the Court of Appeals upheld the summary judgment on the merits but concluded that approximately 92% of the plaintiffs' claims were jurisdictionally barred because those plaintiffs had not filed timely charges of discrimination with the EEOC.<sup>1</sup> The Court of Appeals' mandate was stayed pending petition for certiorari

<sup>1</sup> Plaintiffs argued that TWA had waived the timeliness defense by failing to plead it affirmatively in its answer. Therefore, the court considered whether the time period for filing charges with the EEOC "is in the nature of a statute of limitations, in which case the doctrine of waiver and estoppel would apply, or is a jurisdictional prerequisite to suit in which case the employer could raise it at any time." *In re Consolidated Pretrial Proceedings in the Airline Cases*, 582 F. 2d 1142 (CA7 1978).

The requirement that a timely charge be filed with the EEOC was contained in 42 U. S. C. § 2000e-5 (d) (1970), later renumbered 42 U. S. C. § 2000e-5 (e) (1972).

*Jul  
joined*

You [unclear] 3/1/81  
B.R.W.

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: \_\_\_\_\_

Recirculated: 5 MAR 1981

STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 1

2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

ANNE B. ZIPES ET AL. v. TRANS WORLD AIRLINES,  
INC., and INDEPENDENT FEDERATION OF  
FLIGHT ATTENDANTS v. TRANS WORLD  
AIRLINES, INC., ET AL.

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Nos. 78-1545 and 80-951. Decided March —, 1981

JUSTICE WHITE, with whom JUSTICE POWELL and JUSTICE  
REHNQUIST join, dissenting.

Certiorari should be granted in this case to consider whether the timely filing of a charge of discrimination with the EEOC is a jurisdictional prerequisite to a Title VII suit, and, if so, whether the Court of Appeals erred in affirming the District Court's approval of the settlement of jurisdictionally barred claims.

In 1970 Ann Zipes filed a Title VII class action challenging TWA's policy of terminating female flight attendants who became mothers. The District Court granted summary judgment in favor of the plaintiff class, and the Court of Appeals upheld the summary judgment on the merits but concluded that approximately 92% of the plaintiffs' claims were jurisdictionally barred because those plaintiffs had not filed timely charges of discrimination with the EEOC.<sup>1</sup> The Court of Appeals' mandate was stayed pending petition for certiorari

<sup>1</sup> Plaintiffs argued that TWA had waived the timeliness defense by failing to plead it affirmatively in its answer. Therefore, the court considered whether the time period for filing charges with the EEOC "is in the nature of a statute of limitations in which case the doctrines of waiver and estoppel would apply, or is a jurisdictional prerequisite to suit in which case the employer could raise it at any time." *In re Consolidated Pretrial Proceedings in the Airline Cases*, 582 F. 2d 1142, 1151 (CA7 1978).

The requirement that a timely charge be filed with the EEOC was contained in 42 U. S. C. § 2000e-5 (d) (1970), later renumbered 42 U. S. C. § 2000e-5 (e) (1972).

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

May 13, 1981

You have  
agreed with  
B R W. PS

Full Journey  
B R W

No. 78-1545) - Zipes v. TWA

No. 78-1549) - TWA v. Zipes

No. 80-951) - Ind. Fed. of Flight Attendants v. TWA

Dear Byron:

I agree with each and all of your recommendations as set forth in your very complete memorandum of May 11.

Sincerely,



Mr. Justice White

cc: The Conference

March 3, 1981

78-1545 Zipes v. Trans World

Dear Byron:

Please add my name to your dissent in the above case.

Sincerely,

Mr. Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

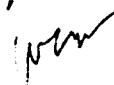
March 3, 1981

Re: Nos. 78-1545 & 80-951 Zipes v. Trans World Airlines

Dear Byron:

Please join me in your dissent from denial of certiorari.

Sincerely,



Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

May 13, 1981

Re: No. 78-1545) Zipes v. TWA  
No. 78-1549) TWA v. Zipes  
No. 80-951 ) Ind. Fed. of Flight Attendants v. TWA

Dear Byron:

I concur with your recommendations and thank you for undertaking the task of studying the cases as thoroughly as you did.

Sincerely,



Justice White

cc: The Conference