

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

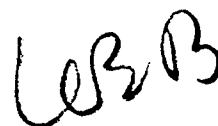
May 13, 1981

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,



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,

A handwritten signature in cursive script, appearing to read "Bill".

Justice White

cc: 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: 3-1-81

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.

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 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.¹ The Court of Appeals' mandate was

¹Plaintiffs 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 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*

*Add my
name
LJP*

You and WHR 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.¹ The Court of Appeals' mandate was stayed pending petition for certiorari

¹ 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).

File
joined

You forward
BRW 3/1/81

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

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 1

From: Mr. Justice White

Circulated: _____

Recirculated: 5 MAR 1981

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.¹ The Court of Appeals' mandate was stayed pending petition for certiorari

¹ 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).

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 13, 1981

You have
agreed with
BRW. PS

ful joined
RE RW

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