

The Burger Court Opinion Writing Database

Cuyler v. Adams

449 U.S. 433 (1981)

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

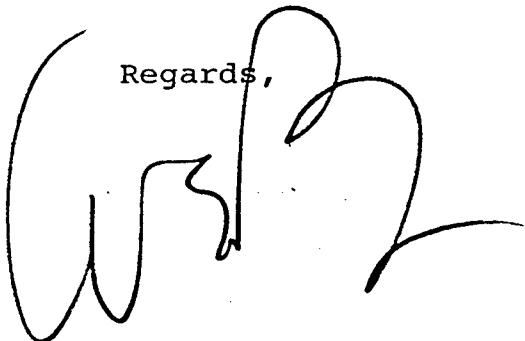
January 15, 1981

RE: 78-1841 - Cuyler v. Adams

Dear Bill:

Please join me in your dissent.

Regards,



Mr. Justice Rehnquist

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 Rehnquist
Mr. Justice O'Connor

From: Mr. Justice Brennan

Circulated:

Recirculated:

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1841

Julius T. Cuyler, Superintendent,
State Correctional Institution,
et al., Petitioners,
v.
John Adams.

On Writ of Certiorari to
the United States Court
of Appeals for the Third
Circuit.

[December —, 1980]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

This case requires us to decide a recurring question concerning the relationship between the Interstate Agreement on Detainers and the Uniform Criminal Extradition Act.¹ The specific issue presented is whether a prisoner incarcerated in a jurisdiction that has adopted the Extradition Act is entitled to the procedural protections of that Act—particularly the right to a pre-transfer hearing—before being transferred to

¹ The Interstate Agreement on Detainers, codified in Pennsylvania at 42 Pa. Stat. Ann. § 9101 *et seq.* (Purdon 1980), is a compact among 48 States, the District of Columbia, and the United States. Initially drafted by the Council of State Governments in 1956 and included in the Council's Suggested State Legislation Program for 1957, the Agreement establishes procedures by which one jurisdiction may obtain temporary custody of a prisoner incarcerated in another jurisdiction for the purpose of bringing that prisoner to trial. Unlike the Extradition Act, the Detainer Agreement establishes procedures under which a prisoner may initiate his transfer to the receiving State and procedures that ensure protection of the prisoner's speedy trial rights.

The Uniform Criminal Extradition Act, codified in Pennsylvania at 42 Pa. Stat. Ann. § 9121 *et seq.* (Purdon 1980), has been adopted by 48 States, Puerto Rico and the Virgin Islands. Initially drafted in 1926 and revised 10 years later, the Extradition Act, like the Detainer Agreement, establishes procedures for the interstate transfer of persons against whom criminal charges are outstanding. Unlike the Detainer Agreement, the Extradition Act applies to persons at liberty as well as to persons in prison.

See pp. 3, 11, 16

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

Circulated: _____

2nd DRAFT

Recirculated: NOV 17 1980

SUPREME COURT OF THE UNITED STATES

No. 78-1841

Julius T. Cuyler, Superintendent,
State Correctional Institution,
et al., Petitioners,
v.
John Adams.

On Writ of Certiorari to
the United States Court
of Appeals for the Third
Circuit.

[December —, 1980]

JUSTICE BRENNAN delivered the opinion of the Court.

This case requires us to decide a recurring question concerning the relationship between the Interstate Agreement on Detainers and the Uniform Criminal Extradition Act.¹ The specific issue presented is whether a prisoner incarcerated in a jurisdiction that has adopted the Extradition Act is entitled to the procedural protections of that Act—particularly the right to a pre-transfer hearing—before being transferred to

¹ The Interstate Agreement on Detainers, codified in Pennsylvania at 42 Pa. Stat. Ann. § 9101 *et seq.* (Purdon 1980), is a compact among 48 States, the District of Columbia, and the United States. Initially drafted by the Council of State Governments in 1956 and included in the Council's Suggested State Legislation Program for 1957, the Agreement establishes procedures by which one jurisdiction may obtain temporary custody of a prisoner incarcerated in another jurisdiction for the purpose of bringing that prisoner to trial. Unlike the Extradition Act, the Detainer Agreement establishes procedures under which a prisoner may initiate his transfer to the receiving State and procedures that ensure protection of the prisoner's speedy trial rights.

The Uniform Criminal Extradition Act, codified in Pennsylvania at 42 Pa. Stat. Ann. § 9121 *et seq.* (Purdon 1980), has been adopted by 48 States, Puerto Rico and the Virgin Islands. Initially drafted in 1926 and revised 10 years later, the Extradition Act, like the Detainer Agreement, establishes procedures for the interstate transfer of persons against whom criminal charges are outstanding. Unlike the Detainer Agreement, the Extradition Act applies to persons at liberty as well as to persons in prison.

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

November 21, 1980

MEMORANDUM TO THE CONFERENCE

RE: No. 78-1841 Cuyler v. Adams

In light of Bill's dissent, I propose to add the following at the end of footnote 10:

Despite the contrary suggestion made by the dissent, Dissenting Opinion, infra, at 7, we do not decide today whether the cited examples of "reciprocal legislation in the criminal area" have received congressional consent or whether the subject matter of any of the cited Acts is an appropriate subject for congressional legislation. Those determinations must await cases properly raising the Compact Clause question with respect to those Acts.

W.J.B.Jr.
W.J.B.Jr.

sep 1980

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

NOV 2 6 1980

No. 78-1841

Julius T. Cuyler, Superintendent,
State Correctional Institution,
et al., Petitioners,
v.
John Adams.

On Writ of Certiorari to
the United States Court
of Appeals for the Third
Circuit.

[December —, 1980]

JUSTICE BRENNAN delivered the opinion of the Court.

This case requires us to decide a recurring question concerning the relationship between the Interstate Agreement on Detainers and the Uniform Criminal Extradition Act.¹ The specific issue presented is whether a prisoner incarcerated in a jurisdiction that has adopted the Extradition Act is entitled to the procedural protections of that Act—particularly the right to a pre-transfer hearing—before being transferred to

¹ The Interstate Agreement on Detainers, codified in Pennsylvania at 42 Pa. Stat. Ann. § 9101 *et seq.* (Purdon 1980), is a compact among 48 States, the District of Columbia, and the United States. Initially drafted by the Council of State Governments in 1956 and included in the Council's Suggested State Legislation Program for 1957, the Agreement establishes procedures by which one jurisdiction may obtain temporary custody of a prisoner incarcerated in another jurisdiction for the purpose of bringing that prisoner to trial. Unlike the Extradition Act, the Detainer Agreement establishes procedures under which a prisoner may initiate his transfer to the receiving State and procedures that ensure protection of the prisoner's speedy trial rights.

The Uniform Criminal Extradition Act, codified in Pennsylvania at 42 Pa. Stat. Ann. § 9121 *et seq.* (Purdon 1980), has been adopted by 48 States, Puerto Rico and the Virgin Islands. Initially drafted in 1926 and revised 10 years later, the Extradition Act, like the Detainer Agreement, establishes procedures for the interstate transfer of persons against whom criminal charges are outstanding. Unlike the Detainer Agreement, the Extradition Act applies to persons at liberty as well as to persons in prison.

Supreme Court of the United States
Washington, D. C. 20543CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 21, 1981

MEMORANDUM TO THE CONFERENCE

Re: Case held for No. 78-1841, Cuyler v. AdamsBrown v. Mitchell, No. 79-5515

The issue in this case is whether United States v. Mauro, 436 U.S. 340 (1978), should be applied retroactively.

While petitioner was in federal custody in the District of Columbia, the State of Virginia filed a detainer against him based on an unrelated homicide charge. The State then obtained temporary custody over petitioner on three separate occasions filing writs of habeas corpus ad prosequendum. After each of first two transfers, petitioner was returned to federal custody without being tried. The third time, petitioner was tried and convicted of murder. He claims that his trial was held in violation of Article IV(e) of the Interstate Agreement on Detainers.

Article IV(e) of the Interstate Agreement on Detainers provides that once a receiving state (in this case Virginia) has obtained temporary custody over a prisoner incarcerated in another jurisdiction by means of a "written request for temporary custody," it must try the prisoner on all pending charges before returning that prisoner to the sending State. If trial is not held before the prisoner is returned, those charges must be dismissed. In United States v. Mauro, this Court held that a federal writ of habeas corpus ad prosequendum constitutes a "written request for temporary custody" under Article IV(e). Petitioner claims that the State of Virginia violated Article IV(e) by not dismissing the charges against him after he was returned to federal custody the first time.

The Virginia state courts rejected petitioner's contention at trial and on appeal. The federal district court denied petitioner's motion for a writ of habeas corpus. The Court of Appeals for the Fourth Circuit affirmed. Recognizing that the State had violated Article IV(e), as interpreted in United States v. Mauro, by returning petitioner to federal custody after having filed a detainer against him and subsequently obtaining temporary custody through a writ of habeas corpus ad prosequendum, the Court nonetheless held that Mauro should not be applied retroactively.

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

CHAMBERS OF
JUSTICE POTTER STEWART

November 14, 1980

Re: 78-1841 - Cuyler v. Adams

Dear Bill,

I shall await the dissenting opinion.

Sincerely yours,

C. B.
P.

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

November 21, 1980

Re: 78-1841 - Cuyler v. Adams

Dear Bill:

Please add my name to your dissenting opinion.

Sincerely yours,

7.51

Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

November 17, 1980

Re: 78-1841 - Cuyler v. Adams

Dear Bill,

Please join me.

Sincerely yours,



Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 13, 1980

Re: No. 78-1841 - Cuyler v. Adams

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. 20543CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 17, 1980

Re: No. 78-1841 - Cuyler v. Adams

Dear Bill:

Please join me in your recirculation of November 17.

Sincerely,



Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

November 17, 1980

No. 78-1841 Cuyler v. Adams

Dear Bill:

In accord with my vote at the Conference, I probably will write a few paragraphs in dissent.

Sincerely,



Mr. Justice Brennan

Copies to the Conference

LFP/lab

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

December 31, 1980

78-1841 Cuyler v. Adams

Dear Bill:

I have concluded not to file a dissent in this case, and accordingly you may consider this a join note.

Although I continue to have considerable difficulty with your reading of the Detainer Agreement, the result of your opinion may be a fair resolution of the question.

I do owe you an apology for not having come to this decision more promptly. I have spent considerable time on a dissenting opinion, but have concluded finally that it simply is not worth publishing.

Sincerely,



Mr. Justice Brennan

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20542

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

November 14, 1980

Re: No. 78-1841 Cuyler v. Adams

Dear Bill:

In due course I will circulate a dissent from
Part II (and therefore the result) in this case.

Sincerely,



Mr. Justice Brennan

Copies to the Conference

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

From: Mr. Justice Rehnquist

Circulated: NOV 6 1980

Recirculated: _____

No. 78-1841 Cuyler v. Adams

MR. JUSTICE REHNQUIST, dissenting.

In a remarkable feat of judicial alchemy the Court today transforms state law into federal law. It decides that the construction of an enactment of the Pennsylvania legislature, for which the consent of Congress was not required under the Constitution, and to which Congress never consented at all save in the vaguest terms some 25 years prior to its passage, presents a federal question. Ante, Part II. Nothing in the prior decisions of this Court suggests, say nothing of compels, such an untoward result.

The cases relied upon by the Court establish, at most, that the interpretation of an interstate compact sanctioned by Congress pursuant to the Compact Clause will present a federal question. See Petty v. Tennessee-Missouri Bridge Commission, 359 U.S. 275, 278 (1959) ("The construction of a compact sanctioned

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

From: Mr. Justice Rehnquist

Circulated: _____

Recirculated: NOV 21 1980

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1841

Julius T. Cuyler, Superintendent,
State Correctional Institution,
et al., Petitioners, } On Writ of Certiorari to
v. } the United States Court
John Adams. } of Appeals for the Third
Circuit.

[December —, 1980]

JUSTICE REHNQUIST, dissenting.

In a remarkable feat of judicial alchemy the Court today transforms state law into federal law. It decides that the construction of an enactment of the Pennsylvania Legislature, for which the consent of Congress was not required under the Constitution, and to which Congress never consented at all save in the vaguest terms some 25 years prior to its passage, presents a federal question. *Ante*, Part II. Nothing in the prior decisions of this Court suggests, say nothing of compels, such an untoward result.

The cases relied upon by the Court establish, at most, that the interpretation of an interstate compact sanctioned by Congress *pursuant to the Compact Clause* will present a federal question. See *Petty v. Tennessee-Missouri Bridge Commission*, 359 U. S. 275, 278 (1959) ("The construction of a compact sanctioned by Congress *under Art. I, § 10, cl. 3, of the Constitution* presents a federal question.") (emphasis supplied); *West Virginia ex rel. Dyer v. Sims*, 341 U. S. 22, 27 (1951) ("congressional consent [was] required"); *Delaware River Joint Toll Bridge Commission v. Colburn*, 310 U. S. 419, 427 (1940) ("the construction of . . . a compact sanctioned by Congress *by virtue of Article I, § 10, Clause 3 of the Constitution*, involves a federal 'title, right, privilege or immunity'") (emphasis supplied). In light of our recent

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Black
Mr. Justice Powell
Mr. Justice Stevens

From: Mr. Justice REHNQUIST

Circulated: _____

Re-circulated: 404

Nov 26, 1980

SUPREME COURT OF THE UNITED STATES

No. 78-1841

Julius T. Cuyler, Superintendent,
State Correctional Institution,
et al. Petitioners

John Adams,

On Writ of Certiorari to
the United States Court
of Appeals for the Third
Circuit.

[December —, 1980]

JUSTICE REHNQUIST, with whom JUSTICE STEWART joins,
dissenting.

In a remarkable feat of judicial alchemy the Court today transforms state law into federal law. It decides that the construction of an enactment of the Pennsylvania Legislature, for which the consent of Congress was not required under the Constitution, and to which Congress never consented at all save in the vaguest terms some 25 years prior to its passage, presents a federal question. *Ante*, Part II. Nothing in the prior decisions of this Court suggests, say nothing of compels, such an untoward result.

The cases relied upon by the Court establish, at most, that the interpretation of an interstate compact sanctioned by Congress *pursuant to the Compact Clause* will present a federal question. See *Petty v. Tennessee-Missouri Bridge Commission*, 359 U. S. 275, 278 (1959) ("The construction of a compact sanctioned by Congress *under Art. I, § 10, cl. 3, of the Constitution* presents a federal question."); (*emphasis supplied*); *West Virginia ex rel. Dyer v. Sims*, 341 U. S. 22, 27 (1951) ("congressional consent [was] required"); *Delaware River Joint Toll Bridge Commission v. Colburn*, 310 U. S. 419, 427 (1940) ("the construction of . . . a compact sanctioned by Congress *by virtue of Article I, § 10, Clause 3 of the Constitution*, involves a federal 'title, right, privilege or immunity'"); (*emphasis supplied*). In light of our recent

• Brennan 080

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

From: Mr. Justice Rehnquist

3rd DRAFT

Circulated:

JAN 15 1981

Regulated:

SUPREME COURT OF THE UNITED STATES ^{Requiring}

No. 78-1841

Julius T. Cuyler, Superintendent,
State Correctional Institution,
et al., Petitioners,
v.
John Adams. } On Writ of Certiorari to
the United States Court
of Appeals for the Third
Circuit.

[December —, 1980]

JUSTICE REHNQUIST, with whom THE CHIEF JUSTICE and JUSTICE STEWART join, dissenting.

In a remarkable feat of judicial alchemy the Court today transforms state law into federal law. It decides that the construction of an enactment of the Pennsylvania Legislature, for which the consent of Congress was not required under the Constitution, and to which Congress never consented at all save in the vaguest terms some 25 years prior to its passage, presents a federal question. *Ante*, Part II. Nothing in the prior decisions of this Court suggests, say nothing of compels, such an untoward result.

The cases relied upon by the Court establish, at most, that the interpretation of an interstate compact sanctioned by Congress pursuant to the *Compact Clause* will present a federal question. See *Petty v. Tennessee-Missouri Bridge Commission*, 359 U. S. 275, 278 (1959) ("The construction of a compact sanctioned by Congress under Art. I, § 10, cl. 3, of the Constitution presents a federal question.") (emphasis supplied); *West Virginia ex rel. Dyer v. Sims*, 341 U. S. 22, 27 (1951) ("congressional consent [was] required"); *Delaware River Joint Toll Bridge Commission v. Colburn*, 310 U. S. 419, 427 (1940) ("the construction of . . . a compact sanctioned by Congress by virtue of Article I, § 10, Clause 3 of the Constitution, involves a federal 'title, right, privilege or immunity' ") (emphasis supplied). In light of our recent

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

November 13, 1980

Re: 78-1841 - Cuyler v. Adams

Dear Bill:

Please join me.

Respectfully,

jh

Mr. Justice Brennan

Copies to the Conference