

# The Burger Court Opinion Writing Database

*Webb's Fabulous Pharmacies, Inc. v.  
Beckwith*

449 U.S. 155 (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

December 4, 1980

RE: 79-1033 - Webb's Fabulous Pharmacies, Inc. v.  
Beckwith, etc.

Dear Harry:

I join.

Regards,

BS

Mr. Justice Blackmun

copies to the Conference

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

CHAMBERS OF  
JUSTICE W. J. BRENNAN, JR.

December 3, 1980

RE: No. 79-1033 Webb's Fabulous Pharmacies v. Beckwith

Dear Harry:

I agree.

Sincerely,



Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

December 2, 1980

Re: 79-1033 - Webb's Fabulous Pharmacies, Inc.  
v. Beckwith

Dear Harry,

I am glad to join your opinion for the  
Court.

Sincerely yours,

✓  
J. S.

Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

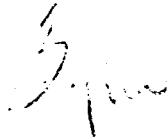
December 1, 1980

Re: 79-1033 - Webb's Fabulous Pharmacies v. Beckwith

Dear Harry,

Although I otherwise agree with your opinion, I am somewhat reluctant to join the suggestions on page 1, page 2 and particularly page 10 that resort to the interpleader procedure and the deposit are both compelled by state law. It may be that this procedure is the most practicable one for an assets purchaser, but he need not follow it. The provision itself simply permits him to do so. It is true that the case is an easier one if the state law requires resort to a procedure resulting in the appropriation of interest that might otherwise accrue to creditors. But is this a critical aspect of your analysis?

Sincerely yours,



Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

December 2, 1980

Re: 79-1033 - Webb's Fabulous  
Pharmacies, Inc. v. Beckwith

Dear Harry,

Please join me.

Sincerely yours,

*Byron*

Mr. Justice Blackmun  
Copies to the Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

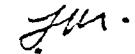
December 4, 1980

Re: No. 79-1033 - Webb's Fabulous Pharmacies v.  
Arthur H. Beckwith

Dear Harry:

Please join me.

Sincerely,

  
T.M.

Justice Blackmun

cc: The Conference

To: The Clerk of Justice  
 Mr. Justice Blackmun  
 Mr. Justice Marshall  
 Mr. Justice White  
 Mr. Justice Blackford  
 Mr. Justice Powell  
 Mr. Justice O'Connor  
 Mr. Justice Stevens  
 Mr. Justice Rehnquist

From: Mr. Justice Blackmun

On Appeal: NOV 30 1980

Received: NOV 30 1980

**1st DRAFT**

**SUPREME COURT OF THE UNITED STATES**

No. 79-1033

Webb's Fabulous Pharmacies,  
 Inc., et al., Appellants,  
 v.  
 Arthur H. Beckwith, Jr., Clerk  
 of the Circuit Court, etc. | On Appeal from the Supreme  
 Court of Florida.

[December —, 1980]

JUSTICE BLACKMUN delivered the opinion of the Court.

This case presents the issue whether it is constitutional for a county to take as its own, under the authority of a state statute, the interest accruing on an interpleader fund compulsorily deposited in the registry of the county court, when a fee, prescribed by another statute, is also charged for the clerk's services in receiving the fund into the registry. The statute which is the object of the constitutional challenge here is Fla. Stat. § 28.33 (1977).<sup>1</sup>

<sup>1</sup> Section 28.33, enacted as 1973 Fla. Laws, ch. 73-282, § 1, reads in pertinent part:

"The clerk of the circuit court in each county shall make an estimate of his projected financial needs for the county and shall invest any funds in designated depository banks in interest-bearing certificates or in any direct obligations of the United States in compliance with federal laws relating to receipt of and withdrawal of deposits. . . . Moneys deposited in the registry of the court shall be deposited in interest-bearing certificates at the discretion of the clerk, subject to the above guidelines. . . . All interest accruing from moneys deposited shall be deemed income of the office of the clerk of the circuit court investing such moneys and shall be deposited in the same accounts as are other fees and commissions of the clerk's office. Each clerk shall, as soon as is practicable after the end of the fiscal year, report to the county governing authority the total interest earned on all investments during the preceding year." (Emphasis supplied.)

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

December 2, 1980

MEMORANDUM TO THE CONFERENCE

Re: No. 79-1033 - Webb's Fabulous Pharmacies v. Beckwith

This note is prompted by Byron's and Bill Rehnquist's communications of 1 December. The changes Byron suggests are certainly all right with me. In fact, this had been my original view, but I prepared the first draft very narrowly because of some preferences for a narrow opinion that were expressed at conference.

In any event, I am making the few changes Byron suggests and a second draft should be around very soon. John has already joined and I must assume, for now at least, that the changes will not meet with his disapproval. He will advise me, of course, if he does not approve.

HAS.

—

STYLISTIC CHANGES  
and pp. 1, 2, 5, 10

### Circumstances

2nd DRAFT

Recirculation: DEC 2 1980

**SUPREME COURT OF THE UNITED STATES**

No. 79-1033

Webb's Fabulous Pharmacies,  
Inc., et al., Appellants,  
v.  
Arthur H. Beckwith, Jr., Clerk  
of the Circuit Court, etc. } On Appeal from the Supreme  
Court of Florida.

[December —, 1980]

JUSTICE BLACKMUN delivered the opinion of the Court.

This case presents the issue whether it is constitutional for a county to take as its own, under the authority of a state statute, the interest accruing on an interpleader fund deposited in the registry of the county court, when a fee, prescribed by another statute, is also charged for the clerk's services in receiving the fund into the registry. The statute which is the object of the constitutional challenge here is Fla. Stat. §28.33 (1977).<sup>1</sup>

<sup>1</sup> Section 28.33, enacted as 1973 Fla. Laws, ch. 73-282, § 1, reads in pertinent part:

"The clerk of the circuit court in each county shall make an estimate of his projected financial needs for the county and shall invest any funds in designated depository banks in interest-bearing certificates or in any direct obligations of the United States in compliance with federal laws relating to receipt of and withdrawal of deposits. . . . Moneys deposited in the registry of the court shall be deposited in interest-bearing certificates at the discretion of the clerk, subject to the above guidelines. . . . *All interest accruing from moneys deposited shall be deemed income of the office of the clerk of the circuit court* investing such moneys and shall be deposited in the same accounts as are other fees and commissions of the clerk's office. Each clerk shall, as soon as is practicable after the end of the fiscal year, report to the county governing authority the total interest earned on all investments during the preceding year." (Emphasis supplied.)

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

December 3, 1980

79-1033 Webb's Fabulous Pharmacies v. Beckwith

Dear Harry:

Although I voted the other way tentatively at Conference, I am persuaded now to join your opinion.

Sincerely,



Mr. Justice Blackmun

lfp/ss

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

December 1, 1980

Re: 79-1033-Webb's Fabulous Pharmacies v. Beckwith

Dear Harry:

I agree with Byron's comment of December 1 on your opinion in this case.

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

December 3, 1980

Re: No. 79-1033 Webb's Fabulous Pharmacies v.  
Beckwith

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

December 1, 1980

Re: 79-1033 - Webb's Fabulous Pharmacies  
v. Beckwith

Dear Harry:

Please join me.

Respectfully,



Mr. Justice Blackmun  
Copies to the Conference