

The Burger Court Opinion Writing Database

United States v. Turkette

452 U.S. 576 (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

June 10, 1981

RE: 80-808 - U.S. v. Turkette

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 28, 1981

RE: No. 80-808 United States v. Turkette

Dear Byron:

I agree.

Sincerely,

A handwritten signature in cursive script, appearing to read "W", is written below the word "Sincerely,".

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 28, 1981

Re: No. 80-808, United States v. Turkette

Dear Byron,

Please add the following at the foot of your opinion for the Court:

Justice Stewart agrees with the reasoning and conclusion of the Court of Appeals as to the meaning of the term "enterprise" in this statute. See United States v. Turkette, 632 F.2d 896. Accordingly, he respectfully dissents.

Sincerely yours,

J.S.
/

Justice White

- Copies to 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: 27 MAY 1981

No. 80-808 - United States v. Turkette Recirculated: _____

JUSTICE WHITE delivered the opinion of the Court.

Chapter 96 of Title 18 of the United States Code, 18 U.S.C. §§ 1961-1968, entitled Racketeer Influenced and Corrupt Organizations (RICO), was added to Title 18 by Title IX of the Organized Crime Control Act of 1970, Pub. L. 91-452, 84 Stat. 941. The question in this case is whether the term "enterprise" as used in RICO encompasses both legitimate and illegitimate enterprises or is limited in application to the former. The Court of Appeals for the Sixth Circuit held that Congress did not intend to include within the definition of "enterprise" those organizations which are exclusively criminal. 632 F.2d 896 (1980). This position is contrary to that adopted by every other circuit that has addressed the issue.¹ We granted certiorari

¹ See United States v. Sutton, 642 F.2d 1001, 1006-1009 (CA6 1980) (en banc), cert. pending Nos. 80-6058, 80-6137, 80-6141, 80-6147, 80-6253, 80-6254, 80-6272; United States v. Errico, 635 F.2d 152, 155 (CA2 1980); United States v. Provenzano, 620 F.2d 985, 992-993 (CA3), cert. denied, No. 80-78 (Oct. 14, 1980); United States v. Whitehead, 618 F.2d 523, 525 n.1 (CA4 1980); United States v. Aleman, 609 F.2d 298, 304-305 (CA7 1979), cert. denied, 445 U.S. 946 (1980); United States v. Rone, 598 F.2d 564, 568-569 (CA9 1979), cert. denied, 445 U.S. 946 (1980); United States v. Swiderski, 193 U.S.App.D.C. 92, 94-95, 593 F.2d 1246, 1248-1249 (1978), cert. denied, 441 U.S. 933 (1979); United

BFW
 17
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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:

From: Mr. Justice White

Circulated: _____

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Recirculated: 3 JUN 1981

SUPREME COURT OF THE UNITED STATES

No. 80-808

United States, Petitioner, } On Writ of Certiorari to the
 v. } United States Court of Ap-
 Novia Turkette, Jr. } peals for the First Circuit.

JAW

[June —, 1981]

JUSTICE WHITE delivered the opinion of the Court.

Chapter 96 of Title 18 of the United States Code, 18 U. S. C. §§ 1961-1968, entitled Racketeer Influenced and Corrupt Organizations (RICO), was added to Title 18 by Title IX of the Organized Crime Control Act of 1970, Pub. L. 91-452, 84 Stat. 941. The question in this case is whether the term "enterprise" as used in RICO encompasses both legitimate and illegitimate enterprises or is limited in application to the former. The Court of Appeals for the First Circuit held that Congress did not intend to include within the definition of "enterprise" those organizations which are exclusively criminal. 632 F. 2d 896 (1980). This position is contrary to that adopted by every other circuit that has addressed the issue.¹ We granted certiorari to resolve this conflict. — U. S. — (1981).

¹See *United States v. Sutton*, 642 F. 2d 1001, 1006-1009 (CA6 1980) (en banc), cert pending Nos. 80-6058, 80-6137, 80-6141, 80-6147, 80-6253, 80-6254, 80-6272; *United States v. Errico*, 635 F. 2d 152, 155 (CA2 1980); *United States v. Provenzano*, 620 F. 2d 985, 992-993 (CA3), cert. denied, No. 80-78 (Oct. 14, 1980); *United States v. Whitehead*, 618 F. 2d 523, 525, n. 1 (CA4 1980); *United States v. Aleman*, 609 F. 2d 298, 304-305 (CA7 1979), cert. denied, 445 U. S. 946 (1980); *United States v. Rone*, 598 F. 2d 564, 568-569 (CA9 1979), cert. denied, 445 U. S. 946 (1980); *United States v. Swiderski*, 193 U. S. App. D. C. 92, 94-95, 593 F. 2d 1246, 1248-1249 (1978), cert. denied, 441 U. S. 933 (1979); *United States v. Elliott*, 571 F. 2d 880, 896-898 (CA5), cert. denied, 439 U. S. 953

Stylistic & P. 17

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: _____

2nd DRAFT

Recirculated: 11 JUN 1981

SUPREME COURT OF THE UNITED STATES

No. 80-808

United States, Petitioner, } On Writ of Certiorari to the
 v. } United States Court of Ap-
 Novia Turkette, Jr. } peals for the First Circuit.

[June —, 1981]

JUSTICE WHITE delivered the opinion of the Court.

Chapter 96 of Title 18 of the United States Code, 18 U. S. C. §§ 1961-1968, entitled Racketeer Influenced and Corrupt Organizations (RICO), was added to Title 18 by Title IX of the Organized Crime Control Act of 1970, Pub. L. 91-452, 84 Stat. 941. The question in this case is whether the term "enterprise" as used in RICO encompasses both legitimate and illegitimate enterprises or is limited in application to the former. The Court of Appeals for the First Circuit held that Congress did not intend to include within the definition of "enterprise" those organizations which are exclusively criminal. 632 F. 2d 896 (1980). This position is contrary to that adopted by every other circuit that has addressed the issue.¹ We granted certiorari to resolve this conflict. — U. S. — (1981).

¹See *United States v. Sutton*, 642 F. 2d 1001, 1006-1009 (CA6 1980) (en banc), cert pending Nos. 80-6058, 80-6137, 80-6141, 80-6147, 80-6253, 80-6254, 80-6272; *United States v. Errico*, 635 F. 2d 152, 155 (CA2 1980); *United States v. Provenzano*, 620 F. 2d 985, 992-993 (CA3), cert. denied, No. 80-78 (Oct. 14, 1980); *United States v. Whitehead*, 618 F. 2d 523, 525, n. 1 (CA4 1980); *United States v. Aleman*, 609 F. 2d 298, 304-305 (CA7 1979), cert. denied, 445 U. S. 946 (1980); *United States v. Rone*, 598 F. 2d 564, 568-569 (CA9 1979), cert. denied, 445 U. S. 946 (1980); *United States v. Swiderski*, 193 U. S. App. D. C. 92, 94-95, 593 F. 2d 1246, 1248-1249 (1978), cert. denied, 441 U. S. 933 (1979); *United States v. Elliott*, 571 F. 2d 880, 896-898 (CA5), cert. denied, 439 U. S. 953

A

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 19, 1981

MEMORANDUM TO THE CONFERENCE

The following cases were held for United States v. Turkette, No. 80-808:

3/9/81 Order list lists this case as used. →

1. Calguri v. United States, No. 80-6047. Petitioner was convicted of violating RICO based on his involvement in a group which attempted to discourage competition in the local tavern business. The means used included arson, extortion and violence. On appeal petitioner argued that the association of bar owners was not an enterprise within the meaning of the statute because the activities of the association were purely illegitimate. The Court of Appeals for the Ninth Circuit affirmed the conviction. The court noted that the Ninth Circuit had previously held that wholly illegitimate enterprises were covered by RICO. United States v. Rone, 598 F.2d 564 (CA9 1979), and that even if that were not so this association's activities fit even the more narrow definition of enterprise which would require only an "ostensible lawful purpose." In light of the holding in Turkette, I will vote to deny this petition.

2. Errico v. United States, No. 80-1247. Petitioner was convicted of violating RICO for his role as the "linchpin" in an association of New York based jockeys and bettors involved in fixing thoroughbred horse races at New York race tracks. On appeal, he claimed that RICO was intended to apply only to the infiltration of legitimate enterprises. Thus, this totally illegitimate enterprise was not of the type intended to be covered by RICO. The Court of Appeals for the Second Circuit affirmed the conviction, adhering to its prior holding in United States v. Altese, 542 F.2d 104 (CA2 1976), that the term "enterprise" includes thoroughly illegitimate organizations. Petitioner repeats that contention here. In light of the holding in Turkette, I will vote to deny this petition.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 8, 1981

Re: No. 80-808 - United States v. Turkette

Dear Byron:

Please join me.

Sincerely,

JM

T.M.

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 8, 1981

Re: No. 80-808 - United States v. Turkette

Dear Byron:

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", written in dark ink.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

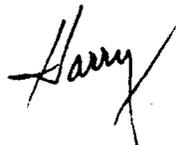
June 8, 1981

Re: No. 80-808 - United States v. Turkette

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

cc: The Conference

[P.S. to Justice White only]

Would there be any point in having a passing reference to the fact that the First Circuit wiped out all the convictions? I realize that we do not get to the joinder issue, but such a reference at least will accentuate the extent of the ruling of the Court of Appeals.



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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 29, 1981

80-808 United States v. Turkette

Dear Byron:

Please join me.

Sincerely,

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

Mr. Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 8, 1981

Re: No. 80-808 United States v. Turkette

Dear Byron,

Please join me.

Sincerely,



Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 27, 1981

Re: 80-808 - United States v. Turkette

Dear Byron:

Please join me.

Respectfully,



Justice White

Copies to the Conference