The Burger Court Opinion Writing Database

Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez

458 U.S. 592 (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

November 20, 1981

Re: No. 80-1305 - Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Quiros

Dear Bill:

I will now join your dissent from denial of cert, November 13, 1981.

Regards,

WEB

Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

May 3, 1982

Re: 80-1305 - Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel. Barez

MEMORANDUM TO THE CONFERENCE:

My vote is to affirm.

Regards,

WEB

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

CHAMBERS OF
THE CHIEF JUSTICE

June 8, 1982

Re: No. 80-1305 - Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel. Barez

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.

June 4, 1982

80-1305

Dear John:

Enclosed is my proposed concurring opinion in Snapp. I would, of course, appreciate any suggestions. Although there is probably more than a little tension between it and Byron's draft, I would like to join a Court opinion on this one too.

With respect to McCready, I hope my response to the dissent doesn't cause you any additional difficulties.

Sincerely,

Bill

Justice Stevens

Brennan J.

Alfred L. Snapp & Son v. Puerto Rico No. 80-1305

JUSTICE BRENNAN concurring.

As the Court notes, ante, at 11, n. 12, the question whether State can bring a parens patriae action within the original urisdiction of this Court may well turn on considerations quite ifferent from those implicated where the State seeks to press a arens patriae claim in the district courts. The Framers, in stablishing original jurisdiction in this Court for suits "in hich a State shall be a Party," Art. III, §2, cl. 2, and ongress, in implementing the grant of original jurisidiction with respect to suits between States, 28 U.S.C. §1251, may well have conceived of a somewhat narrower category of cases as presenting issues appropriate for initial determination in this Court than the full range of cases to which a State may have an interest cognizable by a federal court. The institutional limits on the Court's ability to accomodate such suits accentuates the need for more restrictive access to the original docket. In addition, because the judicial power of the United States does not extend to suits "commenced or prosecuted aginst one of the United States by Citizens of another State," U.S. Const. Amdnt. XI, where one State brings a suit parens patriae against another State, a more circumspect inquiry may be required in order to ensure that the provisions of the Eleventh Amendment are not being too easily circumvented by the device of the State bringing suit on behalf of some private party. Of course, none of the

Brennan fl attch to ltr 6/14/82

To: The Chief Justice
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice Brennan

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Alfred L. Snapp & Son v. Puerto Rico No. 80-1305

JUSTICE BRENNAN concurring.

As the Court notes, ante, at 11, n. 12, the question whether a State can bring a parens patriae action within the original jurisdiction of this Court may well turn on considerations quite different from those implicated where the State seeks to press a parens patriae claim in the district courts. The Framers, in establishing original jurisdiction in this Court for suits "in which a State shall be a Party," Art. III, §2, cl. 2, and Congress, in implementing the grant of original jurisidiction with respect to suits between States, 28 U.S.C. §1251, may well have conceived of a somewhat narrower category of cases as presenting issues appropriate for initial determination in this Court than the full range of cases to which a State may have an interest cognizable by a federal court. The institutional limits on the Court's ability to accomodate such suits accentuates the need for more restrictive access to the original docket. In addition, because the judicial power of the United States does not extend to suits "commenced or prosecuted aginst one of the United States by Citizens of another State," U.S. Const. Amdnt. XI, where one

To: The Chief Justice
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice Brennan**

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1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80–1305

ALFRED L. SNAPP & SON, INC., ET AL., PETITIONERS *v.* PUERTO RICO, EX REL. PEDRO BAREZ, SECRETARY OF LABOR AND HUMAN RESOURCES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June ——, 1982]

JUSTICE BRENNAN, with whom JUSTICE STEVENS joins, concurring.

As the Court notes, *ante*, at 11, n. 12, the question whether a State can bring a *parens patriae* action within the original jurisdiction of this Court may well turn on considerations quite different from those implicated where the State seeks to press a *parens patriae* claim in the district courts. The Framers, in establishing original jurisdiction in this Court for suits "in which a State shall be a Party," Art. III, § 2, cl. 2, and Congress, in implementing the grant of original jurisidiction with respect to suits between States, 28 U. S. C. § 1251, may well have conceived of a somewhat narrower category of cases as presenting issues appropriate for initial determination in this Court than the full range of cases to which a State may have an interest cognizable by a federal court. The institutional limits on the Court's ability to accomodate such suits accentuates the need for more restrictive access to the original docket. In addition, because the judicial power of the United States does not extend to suits "commenced or prosecuted aginst one of the United States by Citizens of another State," U. S. Const. Amdnt. XI, where one State brings a suit *parens patriae* against another *State*, a more circumspect inquiry may be required in order to en-

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES:

To: The Chief Justice
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice Brennan**

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2nd PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80–1305

ALFRED L. SNAPP & SON, INC., ET AL., PETITIONERS *v.* PUERTO RICO, EX REL. PEDRO BAREZ, SECRETARY OF LABOR AND HUMAN RESOURCES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June ——, 1982]

JUSTICE BRENNAN, with whom JUSTICE MARSHALL, JUSTICE BLACKMUN, and JUSTICE STEVENS join, concurring.

As the Court notes, *ante*, at 11, n. 12, the question whether a State can bring a *parens patriae* action within the original jurisdiction of this Court may well turn on considerations quite different from those implicated where the State seeks to press a *parens patriae* claim in the district courts. The Framers, in establishing original jurisdiction in this Court for suits "in which a State shall be a Party," Art. III, § 2, cl. 2, and Congress, in implementing the grant of original jurisidiction with respect to suits between States, 28 U. S. C. § 1251(a)(1), may well have conceived of a somewhat narrower category of cases as presenting issues appropriate for initial determination in this Court than the full range of cases to which a State may have an interest cognizable by a federal court. The institutional limits on the Court's ability to accomodate such suits accentuates the need for more restrictive access to the original docket. In addition, because the judicial power of the United States does not extend to suits "commenced or prosecuted aginst one of the United States by Citizens of another State," U. S. Const., Amdnt. XI, where one State brings a suit *parens patriae* against another *State*, a more circumspect inquiry may be required in

To: The Chief Justice
Justice Brennan
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice White**

Circulated: 25 MAY 1982

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1305

ALFRED L. SNAPP & SON, INC., ET AL., PETITIONERS *v.* PUERTO RICO, EX REL., PEDRO BAREZ, SECRETARY OF LABOR AND HUMAN RESOURCES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[May ——, 1982]

JUSTICE WHITE delivered the opinion of the Court.

In this case, the Commonwealth of Puerto Rico seeks to bring suit in its capacity as *parens patriae* against petitioners for their alleged violations of federal law. Puerto Rico contends that those violations discriminated against Puerto Ricans and injured the Puerto Rican economy. The question presented here is whether Puerto Rico has standing to maintain this suit.

I

A

The factual background of this case involves the interaction of two federal statutes, the Wagner-Peyser Act, 29 U. S. C. § 49 *et seq.*, and the Immigration and Nationality Act of 1952, 8 U. S. C. § 1101 *et seq.* The Wagner-Peyser Act was passed in 1933 in order to deal with the massive problem of unemployment resulting from the Depression. The Act establishes the United States Employment Service, within the Department of Labor, "[i]n order to promote the establishment and maintenance of a national system of public employment offices." 29 U. S. C. § 49. State agencies, which have

To: The Chief Justice
Justice Brennan
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice White**

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 14

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80–1305

ALFRED L. SNAPP & SON, INC., ET AL., PETITIONERS *v.* PUERTO RICO, EX REL., PEDRO BAREZ, SECRETARY OF LABOR AND HUMAN RESOURCES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June ——, 1982]

JUSTICE WHITE delivered the opinion of the Court.

In this case, the Commonwealth of Puerto Rico seeks to bring suit in its capacity as *parens patriae* against petitioners for their alleged violations of federal law. Puerto Rico contends that those violations discriminated against Puerto Ricans and injured the Puerto Rican economy. The question presented here is whether Puerto Rico has standing to maintain this suit.

I

A

The factual background of this case involves the interaction of two federal statutes, the Wagner-Peyser Act, 29 U. S. C. § 49 *et seq.*, and the Immigration and Nationality Act of 1952, 8 U. S. C. § 1101 *et seq.* The Wagner-Peyser Act was passed in 1933 in order to deal with the massive problem of unemployment resulting from the Depression. The Act establishes the United States Employment Service within the Department of Labor "[i]n order to promote the establishment and maintenance of a national system of public employment offices." 29 U. S. C. § 49. State agencies, which have been approved by the Secretary of Labor, are authorized to participate in the nationwide employment service.[1] *Id.*, at

[1] As used in the Act, the word "State" includes Puerto Rico. 29

HAB

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 29, 1982

MEMORANDUM TO THE CONFERENCE

Cases held for No. 80-1305 - Snapp v. Puerto Rico.

No. 81-361 - Bramkamp, et al. v. Puerto Rico.

This is a case from the CA 2 arising out of the same fact situation as Snapp -- the 1978 Apple Harvest on the East Coast -- and raising exactly the same issues. Puerto Rico proceeded against apple growers in the United States District Court for the Southern District of New York (Duffy) at the same time that it proceeded against the Virginia apple growers in the Snapp case. The DC dismissed the complaint, holding that the Commonwealth lacked standing as parens patriae. The CA 2 reversed the DC's dismissal, finding parens patriae standing. In light of our holding in Snapp, I will vote to deny this petition.

No. 81-465 - Porter, et al. v. Pennylvania.

This petition is from an en banc decision of the CA 3, which permitted Pennsylvania to bring suit under 42 U.S.C. §1983 as parens patriae on behalf of citizens whose rights had allegedly been violated by local officials in the borough of Millvale, Pennsylvania. In 1973, Millvale hired petitioner Baranyai as a police officer. Over the next few years, the City Council received a series of complaints about Baranyai's behavior. Despite the fact that criminal charges were eventually brought against him, the City Council continued to approve Baranyai's actions. In October 1977, the Community Advocate Unit of the State Attorney General's Office filed this suit, seeking injunctive relief against Baranyai, the Mayor, the Chief of Police, and the City Council. The DC denied defendant's motion to dismiss for lack of standing, on the condition that the Commonwealth amend its complaint to join as plaintiffs individuals whose rights had allegedly been violated. The individuals were joined and they then sought certification of the suit as a class action. The DC denied this motion, "for the reason that the Commonwealth of Pennsylvania as parens patriae is representing the citizens of the state generally in this action." Eventually, the DC found that Baranyai had engaged in a pattern of unconstitutional conduct, which was supported and encouraged by the Chief of Police, the Mayor, and City Council. It entered a permanent injunction enjoining Baranyai and persons acting with

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 9, 1982

Re: No. 80-1305 - Alfred L. Snapp & Son v. Puerto Rico

Dear Bill:

Please join me in your concurring opinion.

Sincerely,

T.M.

T.M.

Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 18, 1982

Re: No. 80-1305 - Alfred L. Snapp & Son, Inc.
v. Puerto Rico, ex rel. Barez

Dear Bill:

Please join me in your separate concurring opinion in this case.

Sincerely,

Harry

Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 18, 1982

Re: No. 80-1305 - Alfred L. Snapp & Son, Inc.
v. Puerto Rico, ex rel. Barez

Dear Byron:

I am joining Bill Brennan's separate concurring opinion and thereby am joining your opinion.

Sincerely,

Harry

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

November 12, 1981

80-1305 Snapp v. Puerto Rico
81-361 Bramkamp v. Puerto Rico

Dear Bill:

Please join me in your dissent.

Sincerely,

L. Lewis

Justice Rehnquist

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 26, 1982

80-1305 Snapp v. Puerto Rico

Dear Byron:

Please add that I took no part in the decision of this case.

Sincerely,

Lewis

Justice White

lfp/ss

cc: The Conference

pp. 1, 2, 4, 5

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

0$1305H 05-NOV-81 DRB

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

80–1305 ALFRED L. SNAPP & SON, INC., *v.* PUERTO RICO EX REL. QUIROS

81–361 BRAMKAMP, ET AL *v.* PUERTO RICO EX REL. QUIROS

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEAL FOR THE FOURTH CIRCUIT

Nos. 80–1305 AND 81–361. Decided November ——, 1981

JUSTICE REHNQUIST, dissenting.

Two Courts of Appeals, the Fourth and the Second, have reversed holdings of United States District Courts within their circuits. The result is that the Commonwealth of Puerto Rico is allowed to sue, in the same manner as these appellate courts thought that a State might sue, as *parens patriae* on behalf of disappointed Puerto Ricans who unsuccessfully sought employment as temporary workers in the annual apple harvest along the east coast of the United States. Temporary workers from the growing regions are normally not available in adequate numbers, and as a consequence the apple growers customarily employ workers from other States and from foreign countries. Since 1975, the Commonwealth has referred agricultural workers to east coast apple growers through a public employment network known as the Interstate Clearance System. The growers, for various reasons, have preferred to hire foreign workers, primarily from Jamaica. Under the terms of the Immigration and Nationality Act, however, they are permitted to do so only "if unemployed persons capable of performing such service or labor

PP 1,2,3,4,5

0$1305H 12-NOV-81 DICK-rev.

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

ALFRED L. SNAPP & SON, INC., ET AL.
80–1305 *v.*
PUERTO RICO EX REL. QUIROS

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRAMKAMP, ET AL.
81–361 *v.*
PUERTO RICO EX REL. QUIROS

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Nos. 80–1305 AND 81–361. Decided November ——, 1981

JUSTICE REHNQUIST, with whom JUSTICE POWELL joins, dissenting.

Two Courts of Appeals, the Fourth and the Second, have reversed holdings of United States District Courts within their circuits. The result is that the Commonwealth of Puerto Rico is allowed to sue, in the same manner as these appellate courts thought that a State might sue, as *parens patriae* on behalf of disappointed Puerto Ricans who unsuccessfully sought employment as temporary workers in the annual apple harvest along the east coast of the United States. Temporary workers from the growing regions are normally not available in adequate numbers, and as a consequence the apple growers customarily employ workers from other States and from foreign countries. Since 1975, the Commonwealth has referred agricultural workers to east coast apple growers through a public employment network known as the Interstate Clearance System. The growers, for various reasons, have preferred to hire foreign workers, primarily from Ja-

p. 1

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

0$1305H rev. 11/23/81 spw

From: Justice Rehnquist

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

ALFRED L. SNAPP & SON, INC., ET AL.
80–1305 *v.*
PUERTO RICO EX REL. QUIROS

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRAMKAMP, ET AL.
81–361 *v.*
PUERTO RICO EX REL. QUIROS

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Nos. 80–1305 AND 81–361. Decided November ——, 1981

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

Two Courts of Appeals, the Fourth and the Second, have reversed holdings of United States District Courts within their circuits. The result is that the Commonwealth of Puerto Rico is allowed to sue, in the same manner as these appellate courts thought that a State might sue, as *parens patriae* on behalf of disappointed Puerto Ricans who unsuccessfully sought employment as temporary workers in the annual apple harvest along the east coast of the United States. Temporary workers from the growing regions are normally not available in adequate numbers, and as a consequence the apple growers customarily employ workers from other States and from foreign countries. Since 1975, the Commonwealth has referred agricultural workers to east coast apple growers through a public employment network known as the Interstate Clearance System. The growers, for various reasons, have preferred to hire foreign workers, primarily from Ja-

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 24, 1982

Re: No. 80-1305 Snapp v. Puerto Rico

Dear Byron:

Please join me in your opinion.

Sincerely,

whr/cmc

Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 4, 1982

Re: 80-1305 - Snapp v. Puerto Rico

Dear Bill:

Please join me in your concurring opinion.

Respectfully,

Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 26, 1982

No. 80-1305 Snapp v. Puerto Rico

Dear Byron,

Please join me.

Sincerely,

Sandra

Justice White

Copies to the Conference