

The Burger Court Opinion Writing Database

*Ramah Navajo School Board, Inc. v.
Bureau of Revenue of New Mexico*
458 U.S. 832 (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

June 4, 1982

Re: No. 80-2162 - Ramah Navajo School Bd. v.
Bur. of Rev. of N.M.

Dear Thurgood:

I join.

Regards,

Justice Marshall

Copies to the Conference

②

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 1, 1982

RE: No. 80-2162 Ramah Navajo School Board v. Bureau
of Revenue of New Mexico

Dear Thurgood:

I agree.

Sincerely,



Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 24, 1982

Re: 80-2162 - Ramah Navajo School Board,
Inc. v. Bureau of Revenue

Dear Bill,

Please join me in your dissenting
opinion.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

cpm

STYLISTIC CHANGES THROUGHOUT.

PP. 9, 11

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

From: **Justice Marshall**

Circulated: _____

Recirculated: **JUN 7 1982** _____

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-2162

**RAMAH NAVAJO SCHOOL BOARD, INC., ET AL.,
APPELLANTS v. BUREAU OF REVENUE OF
NEW MEXICO**

APPEAL FROM THE COURT OF APPEALS OF NEW MEXICO

[June —, 1982]

JUSTICE MARSHALL delivered the opinion of the Court.

In this case, we address the question whether federal law pre-empts a state tax imposed on the gross receipts that a non-Indian construction company receives from a tribal school board for the construction of a school for Indian children on the reservation. The New Mexico Court of Appeals held that the gross receipts tax imposed by the State of New Mexico was permissible. Because the decision below is inconsistent with *White Mountain Apache Tribe v. Bracker*, 448 U. S. 136 (1980) (*White Mountain*), we reverse.

I

Approximately 2,000 members of the Ramah Navajo Chapter of the Navajo Indian Tribe live on tribal trust and allotment lands located in west central New Mexico. Ramah Navajo children attended a small public high school near the reservation until the State closed this facility in 1968. Because there were no other public high schools reasonably close to the reservation, the Ramah Navajo children were forced either to abandon their high school education or to attend federal Indian boarding schools far from the reservation. In 1970, the Ramah Navajo Chapter exercised its authority under Navajo Tribal Code, Title 10, §51, and established its own school board in order to remedy this situ-

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

From: **Justice Marshall**

Circulated: _____

Recirculated: JUN 9 1982

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-2162

RAMAH NAVAJO SCHOOL BOARD, INC., ET AL.,
APPELLANTS *v.* BUREAU OF REVENUE OF
NEW MEXICO

APPEAL FROM THE COURT OF APPEALS OF NEW MEXICO

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 28, 1982

Re: No. 80-2162 - Ramah Navajo School Board v.
Bureau of Revenue

MEMORANDUM TO THE CONFERENCE

I propose to add the attached footnote at the end of the first sentence of the first full paragraph on page 9. The rest of the footnotes will be renumbered accordingly.

Sincerely,

J.M.
T.M.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 8, 1982

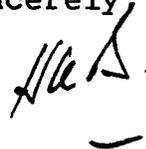
Re: No. 80-2162 - Ramah Navajo School Board v.
Bureau of Revenue of New Mexico

Dear Thurgood:

Please join me.

I would prefer that the last sentence of Part II be omitted, but my joinder does not depend on this.

Sincerely,



Justice Marshall

cc: The Conference

P.S. [To Justice Marshall Only:]

My joinder is dependent on the elimination of that word in the 14th line of page 13. There is also a word in the third line of that page which needs another look.



①

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 31, 1982

80-2162 Ramah Navajo School Board v. Bureau

Dear Thurgood:

Please join me.

Sincerely,

Lewis

Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

68-111 58

June 1, 1982

Re: No. 80-2162 Ramah Navajo School Board v. Bureau
of Revenue of New Mexico

Dear Byron:

I will be happy to undertake the dissent in this case.

Sincerely,



Justice White

cc: The Conference

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

From: Justice Rehnquist

Circulated: 6/29/82

Recirculated: _____

Re: No. 80-2162, Ramah Navajo School Board, Inc.

v. Bureau of Revenue

JUSTICE REHNQUIST, dissenting.

The Court today reproves the New Mexico Court of Appeals for failing to heed our precedents, much as a disappointed parent would rebuke a wayward child.¹ I do not think the Court of Appeals deserves the rebuke; it seems to me that the state court applied our precedents at least as faithfully, and coherently, as the Court itself. In its desire to reach a result the it evidently finds quite salutary as a matter of policy, the Court finds "indistinguishable" a case that is considerably off the mark, and it finds "pervasively regulated" an activity that is

¹"Although we must admit our disappointment that the courts below apparently gave short shrift to this principle and to our precedents in this area, we cannot and do not presume that state courts will not follow both the letter and the spirit of our decisions in the future." Ante, at 13.

B.1

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

From: Justice Rehnquist

Circulated: _____

Recirculated: JUN 25 1982

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-2162

RAMAH NAVAJO SCHOOL BOARD, INC., ET AL.,
APPELLANTS v. BUREAU OF REVENUE OF
NEW MEXICO

APPEAL FROM THE COURT OF APPEALS OF NEW MEXICO

[June —, 1982]

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With whom Justice White and Justice Stevens join

I

The general question presented by this case has occupied the Court many times in the recent past, and seems destined

¹"Although we must admit our diappointment that the courts below apparently gave short shrift to this principle and to our precedents in this area, we cannot and do not presume that state courts will not follow both the letter and the spirit of our decisions in the future." *Ante*, at 13.

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

88

June 2, 1982

Re: 80-2162 - Ramah Navajo School Board
v. Bureau of Revenue of New Mexico

Dear Thurgood:

I shall await Bill Rehnquist's dissent.

Respectfully,



Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 24, 1982

Re: 80-2162 - Ramah v. Bureau of Revenue

Dear Bill:

Please join me in your dissenting opinion.

Respectfully,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

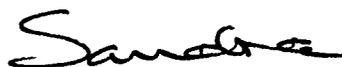
June 3, 1982

No. 80-2162 Ramah Navajo School Board v.
Bureau of Revenue of New Mexico

Dear Thurgood,

Please join me.

Sincerely,



Justice Marshall

Copies to the Conference