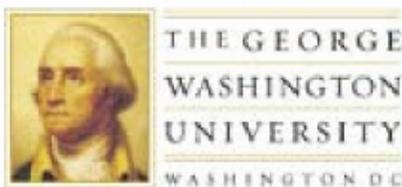


The Burger Court Opinion Writing Database

Steelworkers v. Sadlowski

457 U.S. 102 (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

8- June 8, 1982

Re: 81-395 - United Steelworkers of America v.
Sadlowski

Dear Byron:

I join your dissent.

Regards,

A handwritten signature in dark ink, appearing to read 'WJB', is written below the typed word '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 1, 1982

RE: No. 81-395 United Steelworkers of America v.
Sadlowski, et al.

Dear Thurgood:

I'll await the dissent.

Sincerely,

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

Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 7, 1982

RE: No. 81-395 United Steelworkers v. Sadlowski

Dear Byron:

Please join me in your dissent in the above.

Sincerely,

A handwritten signature in cursive script that reads "Bill".

Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 31, 1982

Re: 81-395 - United Steelworkers
of America v. Sadlowski

Dear Thurgood,

You have written a strong opinion, but
in due course -- before the ferry goes -- I
shall circulate a dissent, hopefully a brief
one.

Sincerely yours,



Justice Marshall

Copies to the Conference

cpm

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

From: Justice White

Circulated: 6/5/82

Recirculated: _____

81-395 - UNITED STEELWORKERS OF AMERICA V. SADLOWSKI

JUSTICE WHITE, dissenting.

The question before us is what Congress intended when in 1959 it passed §101(a)(2), the Bill of Rights provision of the LMRDA. That question is best answered by identifying the problem that Congress intended to solve by adopting the provision. The answer, in turn, is not at all difficult to discover.

After long and careful examination and hearings dealing with the labor union movement, Congress found that too often unions were run by entrenched, corrupt leaders who maintained themselves and discouraged challenge by any means available, including violence and threats.¹ As Senator McClellan explained:

¹The Court of Appeals in this case summarized these findings:

"Prior to the enactment of the LMRDA in 1959 the Select Senate Committee ferreted out widespread corruption, dictatorship and racketeering in a number of large international unions. The Committee found that the President of the Bakery and Confectionary Workers' International Union of America had 'railroaded through changes in the union constitution which destroyed any vestigial pretenses of union democracy.' Select Committee Report, [S.Rep.No.1417, 85th Cong., 2d Sess.] 129

Footnote continued on next page.

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

From: Justice White

Circulated: _____

Recirculated: _____ 7 JUN 1982

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 3

Printed
1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-395

UNITED STEELWORKERS OF AMERICA, AFL-CIO-
CLC, PETITIONER *v.* EDWARD SADLOWSKI, JR.,
ET AL.

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

[June —, 1982]

JUSTICE WHITE, dissenting.

The question before us is what Congress intended when in 1959 it passed § 101(a)(2), the Bill of Rights provision of the LMRDA. That question is best answered by identifying the problem that Congress intended to solve by adopting the provision. The answer, in turn, is not at all difficult to discover.

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¹The Court of Appeals in this case summarized these findings: "Prior to the enactment of the LMRDA in 1959 the Select Senate Committee ferreted out widespread corruption, dictatorship and racketeering in a number of large international unions. The Committee found that the President of the Bakery and Confectionary Workers' International Union of America had 'railroaded through changes in the union constitution which destroyed any vestigial pretenses of union democracy.' Select Committee Report, [S. Rep.No.1417, 85th Cong., 2d Sess.] 129 [1958]. It reported that Dave Beck, General President of the International Brotherhood of Teamsters 'shamefully enriched himself at [the] expense [of the union members] and that in the final instance he capitulated to the forces within the union who promoted the interests of racketeers and hoodlums.' *Id.* at 84. The Committee likewise found Teamster officials joining with others

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

From: Justice Marshall

Circulated: MAY 29 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-395

UNITED STEELWORKERS OF AMERICA, AFL-CIO-
CLC, PETITIONER *v.* EDWARD SADLOWSKI, JR.,
ET AL.

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

[June —, 1982]

JUSTICE MARSHALL delivered the opinion of the Court.

In this case, we confront the question whether § 101(a)(2) of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U. S. C. § 411(a)(2), precludes the membership of a union from adopting a rule that prohibits candidates for union office from accepting campaign contributions from nonmembers. The United States Court of Appeals for the District of Columbia held that such a rule violated § 101(a)(2). *Sadlowski v. United Steelworkers of America*, 645 F. 2d 1114 (1981). We granted certiorari, — U. S. — (1981), and now reverse.

I

A

Petitioner United Steelworkers of America (USWA), a labor organization with 1,300,000 members, conducts elections for union president and other top union officers every four years. The elections for these officers are decided by referendum vote of the membership. In the 1977 election, which was hotly contested, two candidates ran for president: respondent Edward Sadlowski, Jr., the Director of USWA's largest District, and Lloyd McBride, another District Director.¹ Both Sadlowski and McBride headed a slate of candidates for the other top union positions.

PP. 11, 12, 14, 16

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. 81-395

UNITED STEELWORKERS OF AMERICA, AFL-CIO-
CLC, PETITIONER *v.* EDWARD SADLOWSKI, JR.,
ET AL.

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

[June —, 1982]

JUSTICE MARSHALL delivered the opinion of the Court.

In this case, we confront the question whether § 101(a)(2) of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U. S. C. § 411(a)(2), precludes the membership of a union from adopting a rule that prohibits candidates for union office from accepting campaign contributions from nonmembers. The United States Court of Appeals for the District of Columbia held that such a rule violated § 101(a)(2). *Sadlowski v. United Steelworkers of America*, 645 F. 2d 1114 (1981). We granted certiorari, — U. S. — (1981), and now reverse.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 9, 1982

Re: No. 81-395 - United Steelworkers v. Sadlowski

Dear Byron:

Please join me in your dissenting opinion.

Sincerely,



Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 2, 1982

81-395 Steelworkers v. Sadlowski

Dear Thurgood:

In the last sentence on page 15, and note 12 (p. 16) keyed to that sentence, your opinion characterizes the inability of the union's rule to limit expenditures as a "shortcoming". I have thought that this supports, rather than weakens, the argument in favor of the Rule's reasonableness.

If one agrees, as I do, with the view that the First Amendment is not applicable, the only question is the reasonableness of the Rule prohibiting solicitation or acceptance by a candidate or his supporters of support from nonunion members. The Rule, as you agree, imposes a restriction on the candidate and his supporters, but - as I read the Rule and as counsel for Steelworkers conceded at argument - it would not forbid expenditures on behalf of a candidate. Of course, the union has no authority to restrict nonunion members from making such expenditures.

I would think - in light of what Steelworkers' counsel said at argument - that the Rule would not forbid union members, except those who have some part in the campaign, from soliciting these expenditures. Such funds might be used by union members to address issues rather than to support particular candidates. However the Rule may be construed, it would be impossible to police it in a way to prevent some members from arranging expenditures by third parties.

You emphasize the congressional purpose of LMRDA to ensure free and democratic elections. But Congress found that "there have been a number of instances of breach of trust, corruption . . . and other failures to observe high standards of responsibility and ethical conduct". See Wirtz v. Bottle Blowers Association, 389 U.S. 463, 470. Also, as you note (p. 13) there was particular concern "about infiltration of unions by racketeers . . . 'thugs and hoodlums' [who] had taken over unions . . . for pecuniary gain", quoting Senator McClellan.

Congress thought that free and democratic elections were the best means of preventing these abuses. If, however, the Mafia - or other thugs - control a union's organization, the rank and file simply may not have either the leadership or the funds to wage an effective campaign of disclosure. In such a situation the exception with respect to expenditures could be an important "balance" against the power of entrenched corrupt leadership. Thus, one can argue reasonably that the expenditure exception supports the reasonableness of the entire election regulation.

I add one further observation. There is some good language in Wirtz to the effect that unions should be allowed freedom "to run their own elections" that perhaps you may wish to quote. See 398 U.S., at 471.

I am not entirely at rest in this case. As you say, the Rule does restrict speech. If I am correct about the expenditure exception, the restriction would not be as extensive.

Sincerely,



Justice Marshall

lfp/ss

4

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 7, 1982

81-395 United Steelworkers v. Sadlowski

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

88

June 1, 1982

Re: No. 81-395 United Steelworkers of America
v. Sadlowski

Dear Thurgood:

Please join me in your opinion for the Court.

Sincerely,

WHR

Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

81-395 - 41. 28

June 1, 1982

Re: 81-395 - United Steelworkers v.
Sadlowski

Dear Thurgood:

Please join me.

Respectfully,



Justice Marshall

Copies to the Conference

(b)

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 2, 1982

Re: No. 81-395 United Steelworkers of America,
AFL-CIO-CLC v. Edward Sadlowski

Dear Thurgood,

Please join me.

Sincerely,

Sandra

Justice Marshall

Copies to the Conference