

The Burger Court Opinion Writing Database

California v. Texas

457 U.S. 164 (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

18-001 IS 18 58

May 21, 1982

RE: 88 Original - State of California v. State of Texas

Dear Byron:

I join your per curiam opinion in this case.

Regards,

WRB

Justice White

copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

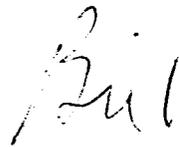
May 27, 1982

RE: No. 88 Orig. California v. Texas

Dear Byron:

I agree.

Sincerely,

A handwritten signature in dark ink, appearing to be "W. White", written in a cursive style.

Justice White

cc: The Conference

85 JUN 23 1982

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

From: **Justice White**

Circulated: 27 MAR 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

STATE OF CALIFORNIA *v.* STATE OF TEXAS ET AL.

ON MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

No. 88, Orig. Decided March —, 1982

PER CURIAM.

In this motion, California seeks leave to file a complaint against Texas under this Court's original jurisdiction. The proposed complaint asks us to decide whether Howard Hughes was domiciled in California or Texas at the time of his death. The decision about domicile will determine which state is entitled to levy death taxes on the estate.

This motion renews the one which California made in November, 1977. At that time, we denied leave to file. *California v. Texas*, 437 U. S. 601 (1978). Following the suggestion of four Justices who concurred in *California v. Texas*, the estate then sought a determination of Hughes' domicile by filing an interpleader action under 28 U. S. C. § 1335 in federal district court. This motion for leave to file a complaint accompanied the petition for certiorari in *Cory v. White*, No.80-1556, in which California taxing officials requested review of the decision of the Fifth Circuit holding that the Federal Interpleader Act provided a jurisdictional basis for resolving the dispute.

We granted certiorari in *Cory v. White*, — U. S. —, and today have held that the Federal Interpleader Act, 28 U. S. C. § 1335, does not give a federal district court jurisdiction to resolve inconsistent death tax claims by the officials of two states. See *ante* at —. We reached that decision both because the suit is barred by the Eleventh Amendment under *Worcester County Trust Co. v. Riley*, 302 U. S. 292 (1937), and because the suit is a controversy between states within our original jurisdiction under *Texas v. Florida*, 306 U. S. 398 (1939).

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

From: **Justice White**

Circulated: _____

Recirculated: 21 MAY 1982

113
 2nd DRAFT

SUPREME COURT OF THE UNITED STATES

STATE OF CALIFORNIA *v.* STATE OF TEXAS ET AL.

ON MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

No. 88, Orig. Decided May —, 1982

PER CURIAM.

In this motion, California seeks leave to file a complaint against Texas under this Court's original jurisdiction. The proposed complaint asks us to decide whether Howard Hughes was domiciled in California or Texas at the time of his death. The decision about domicile could determine which state is entitled to levy death taxes on the estate.

This motion renews the one which California made in November, 1977. At that time, we denied leave to file. *California v. Texas*, 437 U. S. 601 (1978). Following the suggestion of four Justices who concurred in *California v. Texas*, the estate then sought a determination of Hughes' domicile by filing an interpleader action under 28 U. S. C. § 1335 in federal district court. This motion for leave to file a complaint accompanied the petition for certiorari in *Cory v. White*, No.80-1556, in which California taxing officials requested review of the decision of the Fifth Circuit holding that the Federal Interpleader Act provided a jurisdictional basis for resolving the dispute.

We granted certiorari in *Cory v. White*, — U. S. —, and today have held that the Federal Interpleader Act, 28 U. S. C. § 1335, does not give a federal district court jurisdiction to resolve inconsistent death tax claims by the officials of two states. See *ante* at —. We reached that decision both because the suit is barred by the Eleventh Amendment under *Worcester County Trust Co. v. Riley*, 302 U. S. 292 (1937), and because the suit is a controversy between states within our original jurisdiction under *Texas v. Florida*, 306 U. S. 398 (1939).

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

From: **Justice White**

pp. 2-3 added

Circulated: _____

Recirculated: **31** MAY 1982

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

STATE OF CALIFORNIA v. STATE OF TEXAS ET AL.

ON MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

No. 88. Orig. Decided June —, 1982

PER CURIAM.

In this motion, California seeks leave to file a complaint against Texas under this Court's original jurisdiction. The proposed complaint asks us to decide whether Howard Hughes was domiciled in California or Texas at the time of his death. The decision about domicile could determine which state is entitled to levy death taxes on the estate.

This motion renews the one which California made in November, 1977. At that time, we denied leave to file. *California v. Texas*, 437 U. S. 601 (1978). Following the suggestion of four Justices who concurred in *California v. Texas*, the estate then sought a determination of Hughes' domicile by filing an interpleader action under 28 U. S. C. § 1335 in federal district court. This motion for leave to file a complaint accompanied the petition for certiorari in *Cory v. White*, No. 80-1556, in which California taxing officials requested review of the decision of the Fifth Circuit holding that the Federal Interpleader Act provided a jurisdictional basis for resolving the dispute.

We granted certiorari in *Cory v. White*, — U. S. —, and today have held that the Federal Interpleader Act, 28 U. S. C. § 1335, does not give a federal district court jurisdiction to resolve inconsistent death tax claims by the officials of two states. See *ante* at —. We reached that decision because the suit is barred by the Eleventh Amendment under *Worcester County Trust Co. v. Riley*, 302 U. S. 292 (1937). We now also conclude that California's motion for leave to file should be granted.

First, California's Bill of Complaint states a "controversy" between California and Texas within the exclusive jurisdiction of this Court under 28 U. S. C. § 1251(a). It is undis-

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 17, 1982

Re: No. 88 Original - California v. Texas

Dear Byron:

Please join me in your proposed Per Curiam.

I have just one question. Would it not be proper for your final paragraph to include the usual directions as to the time for filing an answer, etc.?

Sincerely,



Justice White

cc: The Conference

.85 MAY 13 5 11

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

From: **Justice Powell**

Circulated: MAY 25 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

STATE OF CALIFORNIA *v.* STATE OF TEXAS ET AL.

ON MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

No. 88, Orig. Decided May —, 1982

JUSTICE POWELL, with whom JUSTICE STEVENS and JUSTICE MARSHALL join, and with whom JUSTICE REHNQUIST joins in part, dissenting.

For the reasons stated in my dissenting opinion in No. 80-1556, *Cory v. White, ante*, I dissent from the grant of leave to file a bill of complaint under the Court's original jurisdiction.

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

From: **Justice Powell**

Circulated: _____

Recirculated: **JUN 4 1982**

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

STATE OF CALIFORNIA *v.* STATE OF TEXAS ET AL.

ON MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

No. 88, Orig. Decided June —, 1982

JUSTICE POWELL, with whom JUSTICE MARSHALL, JUSTICE REHNQUIST, and JUSTICE STEVENS join, dissenting.

In *Cory v. White*, *ante*, at —, the Court today reaffirms the holding of *Worcester County Trust Co. v. Riley*, 302 U. S. 292 (1937), that “inconsistent determinations by the courts of two states as to the domicile of a taxpayer [do] not raise a substantial federal constitutional question.” Under *Worcester County* there is no constitutional bar to both Texas and California taxing the Hughes estate on the ground that he was a domiciliary.

Having reaffirmed the authority of *Worcester County*, the Court concludes that “California and Texas . . . are asserting inconsistent claims and are undeniably adversaries in the interpleader action.” *Ante*, at 2. But its own premises will not support this conclusion. If both States legally can tax the Hughes estate, a controversy between them would arise only if both were to obtain money judgments against the estate and, further, if the estate then were to prove insufficient to satisfy both claims. Yet it is no more clear today than it was in 1978, when we unanimously decided *California v. Texas*, 437 U. S. 601 (1978), that this situation ever will occur. Thus, under the Court’s own assumptions, there is no ripe controversy between the States, and no basis for our consideration of the original complaint in No. 88, Original.

As if discomfited by the logic of its position, the Court argues that the jurisdictional allegations here at least are “no more speculative” than those in *Texas v. Florida*, 306 U. S. 398 (1939). Yet as Justice Stewart argued persuasively in our 1978 decision in *California v. Texas*, *supra*, it is inescap-

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 4, 1982

Re: No. 88 Orig., State of California v. State of Texas

Dear Lewis:

I confirm my joinder of your revised dissent in this case, recirculated June 4th. I hereby withdraw the separate statement I had previously circulated applicable to this case and to No. 80-1556, Cory v. White.

Sincerely,



Justice Powell

Copies to the Conference