

The Burger Court Opinion Writing Database

Operating Engineers v. Jones

460 U.S. 669 (1983)

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

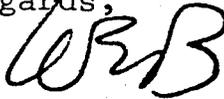
March 31, 1983

Re: No. 81-1574 - Local 926, International Union of
Operating Engineers, AFL-CIO, et al.
v. Robert C. Jones

Dear Byron:

I join.

Regards,



Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

February 25, 1983

RE: No. 81-1574 Local 926, etc. v. Robert C. Jones

Dear Byron:

I agree.

Sincerely,



Justice White

Copies to the Conference

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

From: Justice White

Circulated: FEB 24 1983

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~~BRW
Please join me
JM~~

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1574

LOCAL 926, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO, ET AL., APPELLANTS *v.*
ROBERT C. JONES

ON APPEAL FROM THE COURT OF APPEALS OF GEORGIA

[February —, 1983]

JUSTICE WHITE delivered the opinion of the Court.

This case presents the question whether a state-court action brought by one who is a “supervisor”¹ within the meaning of the National Labor Relations Act § 2(11), 29 U. S. C. § 152(11), for interference by a union with his contractual relationships with his employer is preempted by the National

¹ A supervisor is defined as:

“(1) The term ‘supervisor’ means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.”

Supervisors are expressly excluded from the definition of employee in § 2(3). Only “employees” are given rights under § 7, 29 U. S. C. § 157, which provides in relevant part:

“Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section [8(a)(3)] of this title.”

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

From: **Justice White**

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STYLISTIC CHANGES THROUGHOUT.
SEE PAGES:

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1574

LOCAL 926, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO, ET AL., APPELLANTS
v. ROBERT C. JONES

ON APPEAL FROM THE COURT OF APPEALS OF GEORGIA

[April —, 1983]

JUSTICE WHITE delivered the opinion of the Court.

This case presents the question whether a state-court action brought by one who is a "supervisor"¹ within the meaning of the National Labor Relations Act § 2(11), 29 U. S. C. § 152(11), for interference by a union with his contractual relationships with his employer is preempted by the National

¹ A supervisor is defined as:

"(1) The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

Supervisors are expressly excluded from the definition of employee in § 2(3), 2a U. S. C. § 152(e). Only "employees" are given rights under § 7, 29 U. S. C. § 157, which provides in relevant part:

"Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section [8(a)(3)] of this title."

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 28, 1983

Re: No. 81-1574-Local 926, International Union of
Operating Engineers v. Robert Jones

Dear Byron:

Please join me.

Sincerely,

J.M.

T.M.

Justice White

cc: The Conference

ALL SUBJECTS FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 14, 1983

Re: No. 81-1574 - Local 926 v. Jones

Dear Byron:

Please join me.

Sincerely,



Justice White

cc: The Conference

THE ABOVE IS FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

February 26, 1983

81-1574 Local 926 v. Jones

Dear Bill and Sandra:

I voted tentatively (and unhappily) with the majority in this case.

I assume that one of you will write a dissent, and I will await it. It does seem to me that Byron's opinion can be viewed as justified, though possibly not required, by prior cases. The result, of course, is manifestly unjust.

It may be possible to read Sears more broadly than Byron does. Nor do I think that Perko is quite as dispositive.

Sincerely,

Justice Rehnquist
Justice O'Connor

lfp/ss

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 26, 1983

81-1574 Local 926 v. Jones

Dear Byron:

I will await other writing.

Sincerely,

Lewis

Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 10, 1983

81-1574 Local 926 v. Jones

Dear Bill:

Please join me in your dissent.

Sincerely,

Lewis

Justice Rehnquist

lfp/ss

cc: The Conference

THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 28, 1983

Re: No. 81-1574 Local 926 v. Jones

Dear Byron:

In due course I will circulate a dissent.

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: MAR 8 1983

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1574

LOCAL 926, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO, ET AL., v. ROBERT C. JONES

ON APPEAL FROM THE COURT OF APPEALS OF GEORGIA

[March —, 1983]

JUSTICE REHNQUIST, dissenting.

I disagree with the Court's conclusion that the National Labor Relations Act preempts the state law claims in this case. On balance I think the result reached by the Court is wrong, though the question is a close one; more importantly, I cannot accept the Court's analysis of our recent decision in *Sears, Roebuck & Co. v. Carpenters*, 436 U. S. 180 (1978).

Jones filed suit in the Georgia courts alleging that an agent of Local 926 (the Union) had "maliciously and with full intent intimidated and coerced Georgia Power . . . , or caused Georgia Power . . . to be intimidated and coerced into breaching its employment contract with plaintiff." In addition, Jones alleged, in an amendment to his complaint, Pet. App., at 18a-19a, 2a, that the Union and Georgia Power Company (the Company) jointly conspired to interfere with his contractual relations. The Court apparently acknowledges, *ante*, at 13, and I agree, that Jones' complaint fairly may be read as stating two claims under Georgia tort law—a claim that the Union *coerced* the Company into firing Jones and a claim that the Union *noncoercively* caused his discharge.¹ The trial

¹The Georgia Court of Appeals also took this view of Jones' state law complaint: "A ruling that the union was found *not* to have 'coerced' an employer in the selection of the employer's representative under the Act does

THE UNIVERSITY OF THE DISTRICT OF COLUMBIA LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 1, 1983

Re: 81-1574 - Local 926 v. Jones

Dear Byron:

Please join me.

Respectfully,



Justice White

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RECEIVED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

February 28, 1983

No. 81-1574 Local 926 v. Jones

Dear Byron,

I will await the additional writing before
deciding whether to join that or the majority.

Sincerely,

Sandra

Justice White

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 10, 1983

No. 81-1574 Local 926, International Union of
Operating Engineers, AFL-CIO v. Jones

Dear Bill,

Please join me in your dissent.

Sincerely,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 10, 1983

No. 81-1574 Local 926, International Union of
Operating Engineers, AFL-CIO v. Jones

Dear Byron,

Although at Conference I noted to reverse in this case, I felt it was an unhappy choice. The dissent correctly notes that the issue is a close one, but I think it articulates a valid interpretation of Sears, Roebuck & Co. Accordingly, I shall join the dissent.

Sincerely,

Sandra

Justice White

Copies to the Conference