

The Burger Court Opinion Writing Database

Carpenters v. Scott

463 U.S. 825 (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

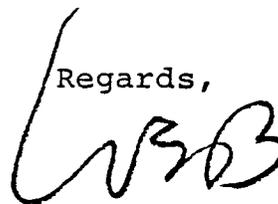
June 14, 1983

Re: No. 82-486, United Brotherhood of Carpenters v. Scott

Dear Byron:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'WJB', written over 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.

May 3, 1983

Re: No. 82-486

United Brotherhood of Carpenters
v. Scott

Dear Harry,

You and I are the only dissenters
in the above. Would you try your hand
at the dissent?

Sincerely,



Justice Blackmun

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 29, 1983

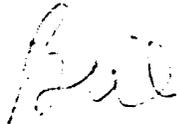
No. 82-486

United Brotherhood
of Carpenters v. Scott

Dear Harry,

Please join me in your
dissent.

Sincerely,



Justice Blackmun

Copies to the Conference

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

From: **Justice White**

Circulated: JUN 7 1983

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-486

UNITED BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, LOCAL 610, AFL-CIO, ET AL.,
PETITIONERS v. PAUL E. SCOTT ET AL.

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

[June —, 1983]

JUSTICE WHITE, announcing the opinion of the Court.

This case concerns the scope of the cause of action made available by 42 U. S. C. § 1985(3)¹ to those injured by con-

¹42 U. S. C. § 1985(3), in its entirety, provides as follows:

“(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one of more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

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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SEE LIST OF CHANGES THROUGHOUT.
SEE PAGES: 8

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-486

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LOCAL 610, AFL-CIO, ET AL., PETITIONERS v. PAUL E. SCOTT ET AL.

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

[June —, 1983]

JUSTICE WHITE, announcing the opinion of the Court.

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pp. 7-8, 11 & 13 and
stylistic changes
throughout

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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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-486

**UNITED BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, LOCAL 610, AFL-CIO, ET AL.,
PETITIONERS v. PAUL E. SCOTT ET AL.**

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

[June —, 1983]

JUSTICE WHITE, delivered the opinion of the Court.

This case concerns the scope of the cause of action made available by 42 U. S. C. § 1985(3) (Supp. 1981)¹ to those in-

¹42 U. S. C. § 1985(3) (Supp. 1981), in its entirety, provides as follows:

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If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one of more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

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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: _____

Recirculated: _____

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-486

UNITED BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, LOCAL 610, AFL-CIO, ET AL.,
PETITIONERS *v.* PAUL E. SCOTT ET AL.

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

[June —, 1983]

JUSTICE WHITE, delivered the opinion of the Court.

This case concerns the scope of the cause of action made available by 42 U. S. C. § 1985(3) (Supp. 1981)¹ to those in-

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7/1/83

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 27, 1983

MEMORANDUM TO THE CONFERENCE

Case held for No. 82-~~468~~ - Carpenters v. Scott

486

82-698 - Howard v. Taylor

This case arises from the efforts of the Freedom of Thought Foundation to "deprogram" respondent, who was an adherent to the Holy Protection of the Blessed Virgin Mary. Deprogramming is the term used to describe the process of psychological shock treatment on members of non-traditional religious sects in an effort to sever their involvement with the religious sect.

Taylor took up residence in the monastery of the Holy Protection of the Blessed Virgin Mary; he was over 21 at the time. His parents disapproved of his action and retained Freedom of Thought Foundation to deprogram their son. Petitioners, the lawyers representing Taylor's parents, first sought an order appointing Taylor's father as temporary guardian. Petitioners approached a visiting state judge and asked him to hear the case. The judge obtained permission to hear the case from the probate judge who would ordinarily have heard the motion. Only thereafter did petitioners file the petition for temporary guardianship. Pursuant to a court order sheriff's deputies went to the monastery and took respondent into custody. When respondent was brought before the court a hearing was held. The judge found respondent normal, but appointed his father as his guardian nevertheless. On the basis of the order entered that day respondent was transported to Ohio, presumably at the behest of his parents. There he was deprogrammed--which involved keeping him under heavy guard and subjecting him to physical and psychological abuse. Respondent was then taken to Arizona for another phase of the deprogramming, whereupon he escaped and returned to the monastery.

Taylor then instituted the present suit in the United States District court for the Eastern District of Oklahoma, alleging that petitioners and the deprogrammers conspired to deprive him of the equal protection of the federal laws, including his right to freedom of religion and association and his right not to be deprived of his liberty without due process, and did so by the

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 30, 1983

Re: 82-486 - United Brotherhood of
Carpenters v. Scott

82-6080 - Barefoot v. Estelle

Dear Chief,

In Scott, Sandra has now joined Harry and Thurgood tells me that he is doing likewise. Scott would thus appear ready to be announced, perhaps tomorrow if the printer can make it.

As for Barefoot, I would expect that to be ready for announcement with Barclay.

Sincerely,

*Byron
gm*

Copies to the Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 7, 1983

Re: No. 82-486-United Brotherhood of Carpenters and
Joiners of America, Local 610, AFL-CIO v. Scott

Dear Byron:

I await further writing in this one.

Sincerely,

J.M.

T.M.

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 30, 1983

Re: No. 82-486 - United Brotherhood
of Carpenters v. Scott

Dear Harry:

Please join me in your dissent.

Sincerely,

JM.
T.M.

Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 3, 1983

Re: No. 82-486 - United Brotherhood of Carpenters and
Joiners of America, Local 610, AFL-CIO v. Scott

Dear Bill:

I shall be glad to try my hand at the dissent.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", with a horizontal line underneath it.

Justice Brennan

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

From: Justice Blackmun

Circulated: JUN 28

No. 82-486 - United Brotherhood of Carpenters v. Scott - Recirculated: _____

JUSTICE BLACKMUN, dissenting.

The Ku Klux Klan Act was the Reconstruction Congress' response to politically motivated mob violence in the postbellum South designed to intimidate persons in the exercise of their legal rights. While §1 of the Act prohibits state officials from violating the federal rights of citizens, §2 addresses the problem of mob violence directly.¹ It provides criminal and civil liability for private conspiracies to deprive "either directly or indirectly, any person or class of persons of the equal protection of the laws or of equal privileges and immunities under the laws." Act of Apr. 20, 1871, §2, 17 Stat. 13 (current version at 42 U.S.C. §1985(3) (1976 ed., Supp. V)). Today, in a classic case of mob violence intended to intimidate persons from exercising their legal rights, the Court holds that the Ku Klux Klan Act provides no protection.

¹Section 1 of the Act is now codified as 42 U.S.C. §1983 (1976 ed., Supp. V). Section 2, in addition to the prohibition at issue here (now codified in §1985(3), first clause), prohibits conspiracies to interfere with the performance of duties by federal officers (§1985(1)), with the administration of federal courts (§1985(2), first part), with the administration of state courts, (§1985(2), second part), with the duties of a state officer (§1985(3), second clause), and with the right to support candidates in a federal election (§1985(3), third clause). See Kush v. Rutledge, ___ U.S. ___, ___ (1983) (slip op. 5). See generally Briscoe v. Lahue, ___ U.S. ___, ___, n. 17 (1983) (describing §§3-6).

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

From: **Justice Blackmun**

Circulated: _____

Recirculated: JUN 29 1983

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-486

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LOCAL 610, AFL-CIO, ET AL.,
PETITIONERS *v.* PAUL E. SCOTT ET AL.

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

[June —, 1983] —, with whom JUSTICE BRENNAN joins, dissenting.

JUSTICE BLACKMUN, ~~dissenting.~~

The Ku Klux Klan Act was the Reconstruction Congress' response to politically motivated mob violence in the postbellum South designed to intimidate persons in the exercise of their legal rights. While § 1 of the Act prohibits state officials from violating the federal rights of citizens, § 2 addresses the problem of mob violence directly.¹ It provides criminal and civil liability for private conspiracies to deprive "either directly or indirectly, any person or class of persons of the equal protection of the laws or of equal privileges and immunities under the laws." Act of Apr. 20, 1871, § 2, 17 Stat. 13 (current version at 42 U. S. C. § 1985(3) (1976 ed., Supp. V)). Today, in a classic case of mob violence intended

¹Section 1 of the Act is now codified as 42 U. S. C. § 1983 (1976 ed., Supp. V). Section 2, in addition to the prohibition at issue here (now codified in § 1985(3), first clause), prohibits conspiracies to interfere with the performance of duties by federal officers (§ 1985(1)), with the administration of federal courts (§ 1985(2), first part), with the administration of state courts, (§ 1985(2), second part), with the duties of a state officer (§ 1985(3), second clause), and with the right to support candidates in a federal election (§ 1985(3), third clause). See *Kush v. Rutledge*, — U. S. —, — (1983) (slip op. 5). See generally *Briscoe v. Lahue*, — U. S. —, —, n. 17 (1983) (describing §§ 3-6).

file

July 1, 1983

Dear Byron:

I shall not recirculate in No. 82-486, United Brotherhood of Carpenters v. Scott. No. 82-6080, Barefoot v. Estelle, is on its way and will be on your desk shortly.

Sincerely,

HAB

Justice White

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 10, 1983

82-486 United Brotherhood v. Scott

Dear Byron:

Please join me.

Sincerely,

Lewis

Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 8, 1983

Re: No. 82-486 United Brotherhood of Carpenters
v. Scott

Dear Byron:

Please join me.

Sincerely,



Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 8, 1983

Re: 82-486 - United Brotherhood of
Carpenters v. Scott

Dear Byron:

Please join me.

Respectfully,



Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 29, 1983

No. 82-486 United Brotherhood of Carpenters
and Joiners of America v. Scott

Dear Harry,

Please join me in your dissenting opinion.

Sincerely,



Justice Blackmun

Copies to the Conference