

The Burger Court Opinion Writing Database

Franchise Tax Board of California v. Construction Laborers Vacation Trust for Southern California

463 U.S. 1 (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

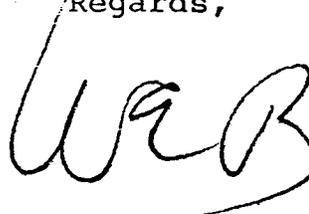
June 14, 1983

Re: No. 82-695, Franchise Tax Bd. of Calif. v.
Construction Laborers Vacation Trust
for So. California

Dear Bill:

I join.

Regards,

A handwritten signature in black ink, appearing to read 'WEB', written in a cursive style.

Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 31, 1983

No. 82-695 Franchise Tax Board v. Construction
Laborers' Vacation Trust

MEMORANDUM TO THE CONFERENCE:

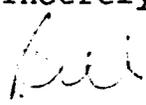
The attached circulation reflects the unanimous Conference vote to hold that the District Court was without jurisdiction to entertain this action and should have remanded to the state court. As written, I think this is a plausible result. However, at least in my own case, my vote was premised on the view that a straightforward application of the Skelly Oil rule barred jurisdiction. This circulation indicates why I have distinct reservations that this is true, and why therefore the result here actually is an extension of the Skelly Oil rule. In the face of all the controversy that Skelly Oil has generated, do we want to do that?

Certainly there is much merit in the argument that cases presenting only the issue of federal preemption, like this one, are particularly poor choices for limiting federal jurisdiction in favor of state court decisions. And does the result here create problems regarding our jurisdiction in No. 81-1578, Shaw v. Delta Air Lines?

I know I'm in effect suggesting that if there's a court inclined to go the other way, and hold that there was federal jurisdiction here, I could follow that course. This could be done on the theory discussed at pages 17-20 that, if ERISA creates jurisdiction for an injunctive or declaratory suit by the trustees (and it does), there is federal jurisdiction over a declaratory judgment claim by a State. That approach, of course, would require that we reach the merits, and I recall that a substantial majority expressed the view at Conference that if we reached the merits, we should affirm.

I await your reaction.

Sincerely,


WJB, Jr.

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

From: **Justice Brennan**

MAY 31 1983

Circulated: _____

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-695

FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA, APPELLANT *v.* CONSTRUCTION LABORERS VACATION TRUST FOR SOUTHERN CALIFORNIA ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June —, 1983]

JUSTICE BRENNAN delivered the opinion of the Court.

The principal question in dispute between the parties is whether the Employment Retirement Income Security Act of 1974 (ERISA), 88 Stat. 832, codified at 29 U. S. C. §§ 1001 *et seq.*, permits state tax authorities to collect unpaid state income taxes by levying on funds held in trust for the taxpayers under an ERISA-covered vacation benefit plan. The issue is an important one, which affects thousands of federally regulated trusts and all non-federal tax collection systems, and it must eventually receive a definitive, uniform resolution. Nevertheless, for reasons involving perhaps more history than logic, we hold that the lower federal courts had no jurisdiction to decide the question in the case before us, and we vacate the judgment and remand the case with instructions to remand it to the state court from which it was removed.

I

None of the relevant facts is in dispute. Appellee Construction Laborers Vacation Trust for Southern California (CLVT)¹ is a trust established by an agreement between

¹ Along with CLVT itself, CLVT's individual trustees are also appel-

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

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

June 22, 1983

Dear Chief,

If we are to announce opinions on
Friday, I can be ready with No. 82-695,
Franchise Tax Board v. Construction
Laborers.

Sincerely,



The Chief Justice
Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 22, 1983

No. 82-695 Franchise Tax Board v. Construction
Laborers Vacation Trust

Dear Lewis:

Your point is well taken. I'll make the change and return to the original language.

Sincerely,

W. J. Brennan, Jr. /jhs
WJB, Jr.

WJB/jhs

Justice Powell

Copies to the Conference

Justice Brennan
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice Stevens
 Justice O'Connor

STYLISTIC CHANGES THROUGHOUT.
 SEE PAGES:

2, 7, 10, 17-18

From: Justice Brennan

Circulated: _____

Recirculated: JUN 22 1983

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-695

FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA, APPELLANT *v.* CONSTRUCTION LABORERS VACATION TRUST FOR SOUTHERN CALIFORNIA ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June —, 1983]

JUSTICE BRENNAN delivered the opinion of the Court.

The principal question in dispute between the parties is whether the Employment Retirement Income Security Act of 1974 (ERISA), 88 Stat. 829, codified at 29 U. S. C. §§ 1001 *et seq.*, permits state tax authorities to collect unpaid state income taxes by levying on funds held in trust for the taxpayers under an ERISA-covered vacation benefit plan. The issue is an important one, which affects thousands of federally regulated trusts and all non-federal tax collection systems, and it must eventually receive a definitive, uniform resolution. Nevertheless, for reasons involving perhaps more history than logic, we hold that the lower federal courts had no jurisdiction to decide the question in the case before us, and we vacate the judgment and remand the case with instructions to remand it to the state court from which it was removed.

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P 17

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

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

Transmitted by _____
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 Reprinted JUN 23 1983

SUPREME COURT OF THE UNITED STATES

No. 82-695

FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA, APPELLANT *v.* CONSTRUCTION LABORERS VACATION TRUST FOR SOUTHERN CALIFORNIA ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 24, 1983]

JUSTICE BRENNAN delivered the opinion of the Court.

The principal question in dispute between the parties is whether the Employment Retirement Income Security Act of 1974 (ERISA), 88 Stat. 829, codified at 29 U. S. C. §§ 1001 *et seq.*, permits state tax authorities to collect unpaid state income taxes by levying on funds held in trust for the taxpayers under an ERISA-covered vacation benefit plan. The issue is an important one, which affects thousands of federally regulated trusts and all non-federal tax collection systems, and it must eventually receive a definitive, uniform resolution. Nevertheless, for reasons involving perhaps more history than logic, we hold that the lower federal courts had no jurisdiction to decide the question in the case before us, and we vacate the judgment and remand the case with instructions to remand it to the state court from which it was removed.

I

None of the relevant facts is in dispute. Appellee Construction Laborers Vacation Trust for Southern California (CLVT)¹ is a trust established by an agreement between

¹Along with CLVT itself, CLVT's individual trustees are also appel-

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 1, 1983

Re: 82-695 -

Franchise Tax Board of California
v. Construction Laborers Vacation
Trust for Southern California

Dear Bill,

I had not thought that the Conference vote in this case would cast any doubt on federal court jurisdiction in Shaw, 81-1578. Nor do I think your draft raises such problems. But if you think so and others do, I would reconsider my vote here; for I do not think that federal jurisdiction over cases like 81-1578 should be undermined.

For now, I am content with your draft.

Sincerely yours,



Justice Brennan

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 1, 1983

Re: No. 82-695-Franchise Tax Board of the State of
California v. Construction Laborers Vacation
Trust for Southern California

Dear Bill:

Please join me.

Sincerely,

J.M.

T.M.

Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 21, 1983

Re: No. 82-695, Franchise Tax Board of California v.
Construction Laborers Vacation Trust for S. California

Dear Bill:

Please join me.

Would you agree that this case and No. 81-1578, Shaw v. Delta Air Lines, Inc., should come down on the same day? There are cross references, and the two cases do have a relationship.

Sincerely,



Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 15, 1983

82-695 Franchise Tax Board v. Laborers Vacation Trust

Dear Bill:

At last, I have found an opportunity to read carefully your opinion for the Court in this case. You have written it consistently with the vote at Conference, and I join.

I do suggest the elimination of the last sentence in footnote 30, page 18, that seems close to a ruling on a question that is not before us.

Sincerely,



Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 22, 1983

82-695 Franchise Tax Board v. Laborers Vacation Trust

Dear Bill:

On page 17 of your second draft, you have changed the first full sentence to read: "Federal courts have original jurisdiction over declaratory judgment suits in which, if the declaratory judgment defendant brought a coercive action to enforce its rights, that suit would necessarily present a federal question." I do not believe that this Court yet has so held.

In footnote 19, you cite to E. Edelman & Co. v. Triple-A Speciality Co., 88 F.2d 852 (CA7 1937), and a strong case could be made that Edelman was correctly decided and should be followed. I have little trouble with the case as limited to the patent area, but am somewhat concerned with the more general principle it announces and the possible expansion of federal jurisdiction that would result.

Fortunately, it is unnecessary to decide this issue in this case. Would it not be best to return to your previous language: "Federal courts have regularly taken original jurisdiction" This falls short of language that appears to commit the Court.

Sincerely,



Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 1, 1983

Re: No. 82-695 Franchise Tax Board of California
v. Construction Laborers Vacation Trust

Dear Bill:

I think your opinion in this case is a truly admirable job. While I can see there are arguments either way about applying Skelly to this situation, I like your opinion the way it is.

Sincerely,



Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 1, 1983

Re: 82-695 - Franchise Tax Board v.
Construction Laborers' Vacation Trust

Dear Bill:

Please join me. I think your opinion correctly construes existing law and that the task of enlarging our federal jurisdiction to cover preemption cases is one that Congress should perform. If it elects to do so, perhaps it will provide the additional federal judges that the enlarged federal jurisdiction would require.

Respectfully,



Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 1, 1983

No. 82-695 Franchise Tax Board of State
of California v. Construction
Laborers Vacation Trust for
Southern California

Dear Bill,

Please join me in your opinion as it
is now. I for one am satisfied with it as is.

Sincerely,



Justice Brennan

Copies to the Conference