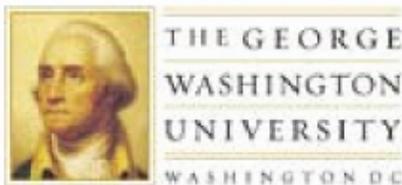


The Burger Court Opinion Writing Database

Consolidated Rail Corporation v. Darrone
465 U.S. 624 (1984)

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

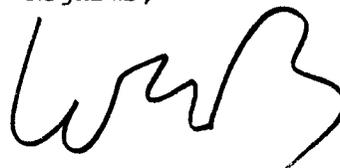
December 10, 1983

Re: 82-862 - Consolidated Rail Corp. v. Darrone

MEMORANDUM TO THE CONFERENCE:

I overlooked sending out a memo last week stating that my
vote in this case is to affirm.

Regards,

A handwritten signature in black ink, appearing to be the initials 'WRB' with a large, sweeping flourish extending to the right.

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

CHAMBERS OF
THE CHIEF JUSTICE

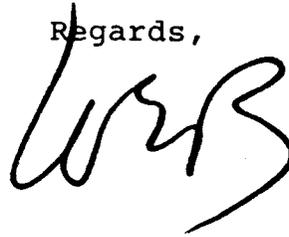
January 31, 1984

Re: No. 82-862 - Consolidated Rail Corp. v. LeStrange

Dear Lewis:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'WJP', written in a cursive style.

Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

January 16, 1984

No. 82-862

Consolidated Rail Corporation
v. Darrone

Dear Lewis,

I agree.

Sincerely,



Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 25, 1984

Re: 82-862 -

Consolidated Rail Corporation v. Daronne

Dear Lewis,

With the minor reservation I spoke to
you about, I agree with your circulating
draft.

Sincerely,



Justice Powell

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 18, 1984

Re: No. 82-862-Consolidated Rail Corp. v.
Darrone

Dear Lewis:

Please join me.

Sincerely,

T.M.

T.M.

Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 19, 1984

Re: No. 82-862 - Consolidated Rail Corp. v. Darrone

Dear Lewis:

Please join me.

Sincerely,

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

Justice Powell

cc: The Conference

01/12

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

From: **Justice Powell**

Circulated: **JAN 12 1984**

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-862

CONSOLIDATED RAIL CORPORATION, PETITIONER
v. LEE ANN LESTRANGE DARRONE, AS ADMINIS-
TRATRIX OF ESTATE OF THOMAS LESTRANGE

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

[January —, 1984]

JUSTICE POWELL delivered the opinion of the Court.

This case requires us to clarify the scope of the private right of action to enforce § 504 of the Rehabilitation Act of 1973, 29 U. S. C. (Supp. V) § 794, that prohibits discrimination against the handicapped by federal grant recipients. There is a conflict among the circuits.

I

The Rehabilitation Act of 1973 establishes a comprehensive federal program aimed at improving the lot of the handicapped. Among its purposes are to "promote and expand employment opportunities in the public and private sectors for handicapped individuals and place such individuals in employment." 29 U. S. C. § 701(8). To further these purposes, Congress enacted § 504 of the Act. That section provides that:

No otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The language of the section is virtually identical to that of § 601 of Title VI of the Civil Rights Act of 1964, 42 U. S. C.

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Handwritten signature and initials:
G.H.

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

CHAMBERS OF
LEWIS F. POWELL, JR.

March 9, 1984

MEMORANDUM TO THE CONFERENCE

Re: Metropolitan Atlanta Rapid Transit Authority v. Jones,
No. 82-1159

This is one of four cases held for Consolidated Rail Corporation v. Darrone, No. 82-862.

In this case, petitioner receives engineering and construction grants and operating subsidies from the federal government. Respondent suffered an injury that required amputation of his right leg. Petitioner rehired respondent as a traffic checker, but denied his request for reinstatement as a bus driver. After exhausting administrative remedies, respondent filed suit under §504 of the Rehabilitation Act. The District Court dismissed the suit on the grounds that petitioner did not receive federal aid the primary objective of which was to promote employment. The Court of Appeals for the Eleventh Circuit reversed, holding that no "primary objective" limitation should be applied to §504 actions.

As this holding is consistent with Conrail, the petition should be denied.

L. F. P.
L. F. P.

HAB

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 9, 1984

MEMORANDUM TO THE CONFERENCE

Re: Metropolitan Atlanta Rapid Transit Authority v. Kelly,
No. 82-1749

This is one of four cases held for Consolidated
Rail Corporation v. Darrone, No. 82-862.

In this case, petitioner was fired from his job as a bus driver after undergoing heart surgery. After three years, he was offered a position as a traffic checker on condition that he pass a physical and sign a release of any outstanding complaint under §504 of the Rehabilitation Act. Instead, petitioner filed suit under that section. The District Court dismissed on the grounds that petitioner received no federal aid the primary purpose of which was to promote employment. The Court of Appeals for the Eleventh Circuit reversed, following its holding in MARTA v. Jones, No. 82-1159 (also held for Conrail), that no "primary objective" limitation applied to §504 actions.

The petition should be denied.

L. F. P.
L. F. P.

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7

TAB

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 9, 1984

MEMORANDUM TO THE CONFERENCE

Re: Scanlon v. Atascadero State Hospital, No. 82-5812

This is one of four cases held for Consolidated Rail Corporation v. Darrone, No. 82-862.

In Scanlon, petitioner, who allegedly suffers from diabetes mellitus and is blind in one eye, claims that he was denied a job as graduate student assistant at respondent Hospital because of his handicaps, in violation of §504 of the Rehabilitation Act. The District Court dismissed on Eleventh Amendment grounds. The Court of Appeals for the Ninth Circuit affirmed, on the grounds that §504 creates a private right of action for employment discrimination only against programs that receive federal aid the primary purpose of which is to promote employment.

As this holding is contrary to our decision in Conrail, the Court should grant, vacate and remand.

L. F. P.
L. F. P.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 9, 1984

MEMORANDUM TO THE CONFERENCE

Re: Meyerson v. Arizona, No. 83-650

This is one of four cases held for Consolidated Rail Corporation v. Darrone, No. 82-862.

In Meyerson, petitioner, a handicapped psychology professor at Arizona State University, filed a claim under §§503 and 504 of the Rehabilitation Act, and 42 U.S.C. §1983, alleging that the University had discriminated against him in the distribution of federally funded research grants. The District Court dismissed the complaint, and the Court of Appeals for the Ninth Circuit affirmed, following its holding in Scanlon v. Atascadero State Hospital, No. 82-5812 (also held for Conrail), that §504 contained a "primary objective" limitation.

The Court should grant, vacate and remand.

L. F. P.

L. F. P.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 19, 1984

Re: No. 82-862 Consolidated Rail Corp. v. Darrone

Dear Lewis:

Please join me.

You've persuaded me.

Sincerely,

WHR

Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 16, 1984

Re: 82-862 - Consolidated Rail Corp. v.
Darrone

Dear Lewis:

Please join me.

Respectfully,



Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

February 19, 1984

Re: No. 82-862 Consolidated Rail Corporation v.
Lee Ann LeStrange Darrone, etc.

Dear Lewis,

Please join me.

Sincerely,



Justice Powell

Copies to the Conference