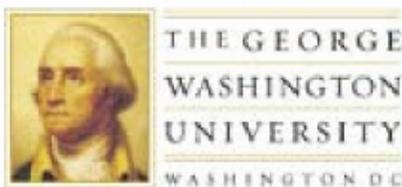


The Burger Court Opinion Writing Database

Heckler v. Edwards

465 U.S. 870 (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

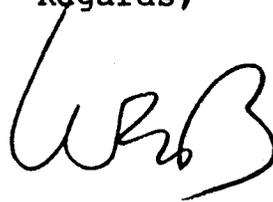
March 13, 1984

Re: 82-874 - Heckler, Sec. H&HS v. Edwards, Et Al.

Dear Thurgood:

I join.

Regards,

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

Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

March 14, 1984

No. 82-874

Heckler v. Edwards

Dear Thurgood,

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bul", likely representing Justice Marshall.

Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 13, 1984

Re: 82-874 - Heckler v. Edwards

Dear Thurgood,

Please join me.

Sincerely,



Justice Marshall

Copies to the Conference

cpm

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

From: **Justice Marshall**

Circulated: **MAR - 8 1984**

Recirculated: _____

Memorandum

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-874

**MARGARET M. HECKLER, SECRETARY OF HEALTH
AND HUMAN SERVICES, PETITIONER v.
MILDRED M. EDWARDS ETC.**

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

[March —, 1984]

JUSTICE MARSHALL delivered the opinion of the Court.

This case raises an issue concerning this Court's mandatory jurisdiction. Federal courts of appeals have jurisdiction over appeals from all final decisions of district courts, "except where a direct review may be had in the Supreme Court." 28 U. S. C. § 1291. Section 1252 of Title 28 provides for such a direct appeal from a United States court's judgment, in a civil proceeding to which the Government is a party, holding that an Act of Congress is unconstitutional. The issue before us is whether the Court of Appeals properly dismissed for lack of jurisdiction the Secretary's appeal from a proceeding in which a federal statute was declared unconstitutional, but in which the Government challenged only the district court's remedy.

I

Respondent filed this suit against the Secretary of Health and Human Services in the United States District Court for the Northern District of California in October 1980. On behalf of a nationwide class of Social Security applicants and recipients, respondent challenged the constitutionality of § 211(a)(5)(A) of the Social Security Act, 42 U. S. C. § 411(a)(5)(A), which established a gender-based presumption concerning the allocation of income from family businesses in

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 27, 1984

MEMORANDUM TO THE CONFERENCE

Re: Case held for Heckler v. Edwards, No. 82-874

✓ Denberg v. Railroad Retirement Board, No. 83-395, presents two issues. In light of our holding that a direct appeal to this Court does not lie under 28 USC §1252 when the appeal does not challenge the district court's holding that an Act of Congress is unconstitutional, the CA 7 correctly asserted jurisdiction. I would therefore vote to deny the petition for certiorari as to that issue. The CA went on to decide, however, that the DC did not have 28 USC §1337 subject matter jurisdiction over a Railroad Retirement Act case, because 45 USC §231(g) provides for review of final Board decisions in the CA; petitioner should have appealed respondent's denial of benefits to the CA and raised his constitutional challenge there. Although Judge Wood dissented, noting that exhaustion of administrative remedies would be futile when the agency has no authority to make a constitutional determination, I conclude that the CA majority is correct. Petitioner Denberg was administratively denied benefits. A specific jurisdictional statute places review of that decision in the CA. I will vote to deny.

Sincerely,

T.M.
T.M.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 12, 1984

Re: No. 82-874 - Heckler v. Edwards

Dear Thurgood:

Please join me.

Do you think it is worth citing Montana Contractors' Assn. v. Kreps, 442 U.S. 935 (1979), a case which was dismissed for want of jurisdiction? I realize this is a summary action, but it seems to me that the case is precisely in point. The SG has made much of it in the briefs.

Sincerely,



Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 9, 1984

82-874 Heckler v. Edwards

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 12, 1984

Re: No. 82-874 Heckler v. Edwards

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 8, 1984

Re: 82-874 - Heckler v. Edwards

Dear Thurgood:

Please join me.

Respectfully,



Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 9, 1984

No. 82-874 Heckler v. Edwards

Dear Thurgood,

Please join me.

Sincerely,



Justice Marshall

Copies to the Conference