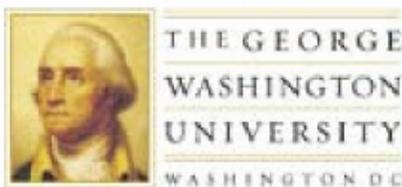


The Burger Court Opinion Writing Database

Burnett v. Grattan

468 U.S. 42 (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

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

CHAMBERS OF
THE CHIEF JUSTICE

June 11, 1984

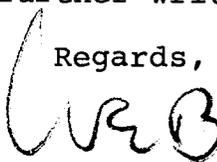
24 JUN 11 12:54

Re: 83-264 - Burnett v. Grattan & Hedman

Dear Thurgood:

I will not be able to join your proposed draft and will await further writing.

Regards,



Justice Marshall

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

June 20, 1984

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SUPREME COURT, U.S.
JUSTICE MARSHALL

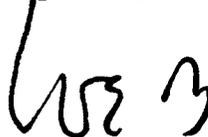
'84 JUN 21 11:24

Re: 83-264 - Burnett v. Grattan

Dear Bill:

Please show me as joining your concurrence.

Regards,

A handwritten signature in dark ink, appearing to be 'WRB', written in a cursive style.

Justice Rehnquist

Copies to the Conference

(12)

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

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SUPREME COURT, U.S.
JUSTICE MARSHALL

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

24 JAN -7 1984

June 7, 1984

No. 83-264

Burnett, etc., et al. v. Grattan

Dear Thurgood,

I agree.

Sincerely,

Brennan

Justice Marshall

Copies to the Conference



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

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 15, 1984. **74 JUN 15 12 51**

Re: 83-264 - Burnett v. Hedman

Dear Thurgood,

Please join me.

Sincerely yours,

Justice Marshall

Copies to the Conference

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

From: **Justice Marshall**
1984

Circulated: _____

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-264

CALVIN W. BURNETT, ETC., ET AL., PETI-
TIONERS *v.* JAMES R. GRATTAN AND
ADRIENNE S. HEDMAN

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

[June —, 1984]

JUSTICE MARSHALL delivered the opinion of the Court.

The question presented is whether a state law, establishing a procedure for administrative resolution of employment discrimination complaints, provides an appropriate statute of limitations for actions brought under the Reconstruction-era Civil Rights Acts, 42 U. S. C. § 1981 *et seq.*

I

Respondents James Grattan and Adrienne Hedman were employees of Coppin State College, a predominantly Negro college in Maryland. Their primary responsibility was to recruit students of diverse ethnic backgrounds to attend the school. App. 34-39. Respondents received notice in June, 1976, that their contracts would not be renewed because the college "was not satisfied with the recruitment efforts of the Minority Affairs office." App. 34, 38. In response, respondents, who are white, filed complaints of racial discrimination with the federal Equal Employment Opportunity Commission. While those claims were pending, they filed suit in state court in February, 1977, naming as defendants the petitioners in the present action—the president of the college, the vice president of student affairs, and the chairman and executive director of the board of trustees. In October,

pp. 1, 4, 5, 8-11

STYLISTIC CHANGES THROUGHOUT.

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

From: Justice Marshall

Circulated: _____

Recirculated: JUN 20 1984

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-264

CALVIN W. BURNETT, ETC., ET AL., PETI-
TIONERS *v.* JAMES R. GRATTAN AND
ADRIENNE S. HEDMAN

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

[June —, 1984]

JUSTICE MARSHALL delivered the opinion of the Court.

The question presented is whether a state law, establishing a procedure for administrative resolution of employment discrimination complaints, provides an appropriate statute of limitations for actions brought under the Reconstruction-era Civil Rights Acts, 42 U. S. C. § 1981 *et seq.* We hold that it does not.

I

Respondents James Grattan and Adrienne Hedman were employees of Coppin State College, a predominantly Negro college in Maryland. Their primary responsibility was to recruit students of diverse ethnic backgrounds to attend the school. App. 34-39. Respondents received notice in June, 1976, that their contracts would not be renewed because the college "was not satisfied with the recruitment efforts of the Minority Affairs office." App. 34, 38. In response, respondents, who are white, filed complaints of racial discrimination with the federal Equal Employment Opportunity Commission. While those claims were pending, they filed suit in state court in February, 1977, naming as defendants the petitioners in the present action—the president of the college, the vice president of student affairs, and the chairman and executive director of the board of trustees. In Oc-

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 26, 1984

MEMORANDUM TO THE CONFERENCE

Cases held for Burnett v. Grattan, No. 83-264

Burnett's holding that Maryland's 6-month administrative statute of limitations is inappropriate for application to judicial actions brought under the Civil Rights Acts does not control the two held cases. Drawing from our three opinions, however, I conclude that we would choose to defer to the CA3, and that the cases do not raise an issue requiring our attention now. I will vote to deny certiorari in both cases.

1. Springfield Township School District v. Knoll, No. 82-1889:

The issue in this case is whether Pennsylvania's 6-month statute of limitations governing actions against public officials applies to an employment discrimination claim brought by a public school teacher under 42 U.S.C. §1983. Judge Aldisert, writing for a panel of the CA3 (Gibbons, Higginbotham), held that 42 Pa. Cons. Stat. Ann. §§5522(b)(1), enacted in 1978, was inappropriate. The analysis followed these steps. No Pennsylvania limitations statute applies to claims for the torts of wrongful discharge or interference with contractual/economic rights. Therefore, the court should determine what statute the state court would have applied had the action been brought under state law. Pennsylvania would have applied the 6-month period for actions against "any officer of any governmental unit for anything done in the execution of his office." But that result is inconsistent with the federal policy underlying §1983. The 6-month period "would contravene the remedial purpose of federal civil rights actions." Judge Aldisert discusses pragmatic considerations (6 months is insufficient for the average plaintiff to recognize his constitutional deprivation and prepare a case for filing) and legislative history (Congress would not sanction application of 6-months period for actions involving public officials when identical action brought against private party under §§1981, 1982 would be governed by 6-year limitation period under Pennsylvania law). The CA3 concluded that the state residuary, 6-year limitations provision better served the policies expressed in the federal statute. This analysis is really an amalgam of my view and Bill's view in his concurrence.

Grant - there is conflict

Grant The CA3 held that the *J.M.*

6 month period is too short as a matter of ^{T.M.} federal policy, although the state legislature intended that period to apply. This differs from Burnett - which was a question of state legislative intent - and seems incorrect. There is a direct conflict with CA1

4

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 18, 1984

Re: No. 83-264 - Burnett v. Grattan

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

74 JUN -7 P1 59

June 7, 1984

83-264 Burnett v. Grattan

Dear Thurgood:

Although I agree with your judgment, at least as of now it seems to me that your opinion is considerably more broadly written than is necessary. I thought CA4's decision in McNutt v. Duke Precision Dental Laboratories, 698 F.2d 676 (1983) that was followed in this case, was about right.

The paragraphs on page 8 particularly trouble me. I would find it difficult to agree, for example, that Civil Rights "causes of action exist independently of any other legal or administrative relief that may be available as a matter of federal or state law". This may well be true in many cases, but I cannot say that it is an invariable rule.

I therefore will await other writing.

Sincerely,

Lewis

Justice Marshall

lfp/ss

cc: The Conference

06/16

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

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SUPREME COURT, U.S.
JUSTICE MARSHALL

84 JUN 18 P1:08

From: Justice Powell

Circulated: JUN 18 1984

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-264

CALVIN W. BURNETT, ETC., ET AL., PETI-
TIONER *v.* JAMES R. GRATTAN AND
ADRIENNE S. HEDMAN

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

[June —, 1984]

JUSTICE POWELL, concurring in the judgment.

The question is the appropriate statute of limitations applicable to this Maryland employment discrimination case under 42 U. S. C. §§ 1981, 1983, and 1985(3). The Court of Appeals in *McNutt v. Duke Precision Dental Orthodontic Laboratories*, 698 F. 2d 676 (CA4 1983), and again in this case, held that in all claims for which no other limitations period is specifically provided, Maryland's general three-year period of limitations is the most appropriate for federal courts to apply in actions under the Reconstruction Civil Rights Acts. The Court of Appeals rejected petitioners' reliance on Maryland's six-month period of limitation applicable to state administrative complaints of employment discrimination. As petitioners have adduced no persuasive reason to doubt that the Court of Appeals correctly decided this question, I agree with the judgment of the Court.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

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SUPREME COURT, U.S.
JUSTICE MARSHALL

84 JUN -7 10:29

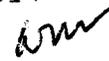
June 7, 1984

Re: No. 83-264 Burnett v. Grattan

Dear Thurgood:

I shall write separately in this case.

Sincerely,



Justice Marshall

cc: The Conference

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

84 JUN 14 P1:10

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

From: Justice Rehnquist

Circulated: JUN 14 1984

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-264

CALVIN W. BURNETT, ETC., ET AL., PETI-
TIONER *v.* JAMES R. GRATTAN AND
ADRIENNE S. HEDMAN

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

[June —, 1984]

JUSTICE REHNQUIST, concurring in the judgment of the
Court.

I concur in the judgment of the Court, agreeing with the Court of Appeals that in these circumstances the statute of limitations imposed on administrative complaints filed under Md. Code, Art. 49B, § 9(a) is not the most appropriate statute of limitations to be applied in this case. I write separately because I cannot agree with the standard by which the Court purports to reach this result. In my view, the search for the most appropriate statute of limitations should begin with determining the intent of the state legislature in enacting a particular statute of limitations.

The task before us is straightforward: we are to examine Maryland law to determine what is the most appropriate statute of limitations to apply to respondents' lawsuit. The Court is presented with this task because Congress has seen fit not to prescribe a specific statute of limitations to govern actions under most of the federal civil rights statutes, instead directing courts to apply state law if "not inconsistent" with federal law. See 42 U. S. C. § 1988; cf. *id.*, at § 1986 (setting a one-year statute of limitations). The Court addresses the question before us by assuming that certain functional differences may exist between claims asserted under the federal civil rights laws and claims asserted under state law. Under

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SUPREME COURT, U.S.
JUSTICE MARSHALL
STYLISTIC CHANGES THROUGHOUT

'84 JUN 22 P1:14

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

From: Justice Rehnquist

JUN 22 1984

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-264

CALVIN W. BURNETT, ETC., ET AL., PETITIONERS *v.*
JAMES R. GRATTAN AND ADRIENNE S. HEDMAN

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

[June 27, 1984]

JUSTICE REHNQUIST, with whom THE CHIEF JUSTICE and
JUSTICE O'CONNOR join, concurring in the judgment.

I concur in the judgment of the Court, agreeing with the
Court of Appeals that in these circumstances the statute of
limitations imposed on administrative complaints filed under
Md. Ann. Code, Art. 49B, § 9(a) (1979) is not the most appro-
priate statute of limitations to be applied in this case. I
write separately because I cannot agree with the standard by
which the Court purports to reach this result. In my view,
the search for the most appropriate statute of limitations
should begin with determining the intent of the state legisla-
ture in enacting a particular statute of limitations.

The task before us is straightforward: we are to examine
Maryland law to determine what is the most appropriate
statute of limitations to apply to respondents' lawsuit. The
Court is presented with this task because Congress has seen
fit not to prescribe a specific statute of limitations to govern
actions under most of the federal civil rights statutes, instead
directing courts to apply state law if "not inconsistent" with
federal law. See 42 U. S. C. § 1988; cf. § 1986 (setting a one-
year statute of limitations). The Court addresses the ques-
tion before us by assuming that certain functional differences
may exist between claims asserted under the federal civil
rights laws and claims asserted under state law. Under this
approach, the appropriateness of a particular state statute of



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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

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SUPREME COURT, U.S.
JUSTICE MARSHALL

24 JUN -7 A9:30

June 6, 1984

Re: 83-264 - Burnett v. Grattan

Dear Thurgood:

Please join me.

Respectfully,

Justice Marshall

Copies to the Conference

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

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SUPREME COURT, U.S.
JUSTICE MARSHALL

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

74 JUN -8 A9:49

June 7, 1984

No. 83-264 Burnett v. Grattan

Dear Thurgood,

I am unable to join your circulating draft, and will therefore await further writing even though I voted with the majority in this case at Conference. I am particularly concerned about the broad language in your draft concerning exhaustion of state remedies, and your suggestion that a court has broad discretion to reject a state statute of limitation that does not, in the court's judgment, adequately effectuate federal purposes. Your draft also appears to undercut somewhat the language in the circulating opinion in Tower v. Glover, No. 82-1988, language that five members of the Court have now joined.

I believe the touchstone for determining the acceptability of a state statute of limitation should be the state legislature's intent that the statute apply to a federal civil rights action. In this case the Court of Appeals was of the view that the six-month period was not so intended, and I am willing to accept that construction of state law as dispositive.

Sincerely,



Justice Marshall

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 14, 1984

No. 83-264 Burnett v. Grattan

Dear Bill,

Please join me in your concurring opinion.

Sincerely,



Justice Rehnquist

Copies to the Conference

JUN 14 6 35 33