

The Burger Court Opinion Writing Database

SEC v. Jerry T. O'Brien, Inc.

467 U.S. 735 (1984)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



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

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

CHAMBERS OF
THE CHIEF JUSTICE

June 12, 1984

84 JUN 13 A9:44

Re: 83-751 - SEC v. Jerry T. O'Brien, Inc.

Dear Thurgood:

I join.

Regards,



Justice Marshall

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

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

24 JUN -4 AM 30

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 4, 1984

No. 83-751

Securities and Exchange
Commission, et al. v. Jerry
T. O'Brien, Inc., et al.

Dear Thurgood,

I agree.

Sincerely,

Bill

Justice Marshall

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

June 5, 1984

84 JUN -5 P2:01

Re: 83-751 - SEC v. O'Brien

Dear Thurgood,

I agree.

Sincerely yours,



Justice Marshall

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cpm

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

From: **Justice Marshall**

Circulated: JUN 1 1984

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-751

SECURITIES AND EXCHANGE COMMISSION, ET AL.,
PETITIONERS *v.* JERRY T. O'BRIEN, INC., ET AL.

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

[June —, 1984]

JUSTICE MARSHALL delivered the opinion of the Court.

The Securities and Exchange Commission ("SEC" or "Commission") has statutory authority to conduct nonpublic investigations into possible violations of the securities laws and, in the course thereof, to issue subpoenas to obtain relevant information. The question before us is whether the Commission must notify the "target" of such an investigation when it issues a subpoena to a third party.

I

This case represents one shard of a prolonged investigation by the SEC into the affairs of respondent Harry F. Magnuson and persons and firms with whom he has dealt. The investigation began in 1980, when the Commission's staff reported to the Commission that information in their possession tended to show that Magnuson and others had been trading in the stock of specified mining companies in a manner violative of the registration, reporting, and antifraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. In response, the Commission issued a Formal Order of Investigation¹ authorizing employees of its Seattle

¹ A Formal Order of Investigation is issued by the Commission only after its staff has conducted a preliminary inquiry, in the course of which "no process is issued [nor] testimony compelled." 17 CFR § 202.5 (1983). The purposes of such an order are to define the scope of the ensuing inves-

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: _____

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-751

SECURITIES AND EXCHANGE COMMISSION, ET AL.,
PETITIONERS *v.* JERRY T. O'BRIEN, INC., ET AL.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 11, 1984

Re: No. 83-751 - SEC v. Jerry T. O'Brien, Inc.

Dear Thurgood:

Please join me.

Sincerely,

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL
84 JUN 11 10:58

Justice Marshall

cc: The Conference

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

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SUPREME COURT, U.S.
JUSTICE MARSHALL

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

24 JUN -6 P1:12

June 6, 1984

83-751 SEC v. Jerry T. O'Brien, Inc.

Dear Thurgood:

Please join me.

Sincerely,

Lewis

Justice Marshall

lfp/ss

cc: The Conference

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CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

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

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SUPREME COURT, U.S.
JUSTICE MARSHALL

'84 JUN -6 P2:41

June 6, 1984

Re: No. 83-751 SEC v. O'Brien

Dear Thurgood:

Please join me.

Sincerely,

Justice Marshall

cc: The Conference

2

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

84 JUN -4 NO:48

June 4, 1984

Re: 83-751 - SEC v. O'Brien, Inc.

Dear Thurgood:

Please join me.

Respectfully,



Justice Marshall

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

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

'84 JUN -4 10:48

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 4, 1984

Re: No. 83-751 SEC v. Jerry T. O'Brien, Inc.

Dear Thurgood,

Please join me.

Sincerely,

Sandra

Justice Marshall

Copies to the Conference

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