

The Burger Court Opinion Writing Database

United States v. Maine

469 U.S. 504 (1985)

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

January 16, 1985

Re: 35 Original - United States v. Maine

Dear Harry:

I join.

Regards,

Justice Blackmun

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81 JAN 19 1985

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

M

January 11, 1985

No. 35 Original

United States v. Maine, et al.

Dear Harry,

I agree.

Sincerely,

Bill

Justice Blackmun

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20543

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

BA: RA 01 15L 13
January 15, 1985

Re: No. 35 Orig. - United States v. Maine

Dear Harry,

Join me, please.

Sincerely yours,

Byron

Justice Blackmun

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 10, 1985

Re: No. 35 Orig.-U.S. v. Maine

Dear Harry:

Please join me.

Sincerely,

T.M.

T.M.

Justice Blackmun

cc: The Conference

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

From: **Justice Blackmun**

Circulated: JAN 09 1985

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HAB
Please for me
M

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 35 Orig.

**UNITED STATES v. MAINE ET AL. (RHODE ISLAND
AND NEW YORK BOUNDARY CASE)**

ON MOTION FOR SUPPLEMENTAL PROCEEDINGS

[January —, 1985]

JUSTICE BLACKMUN delivered the opinion of the Court.

These Supplemental Proceedings in this wide-ranging litigation are to determine the legal coastline of the United States in the area of Block Island Sound and the eastern portion of Long Island Sound. That determination turns on whether Long Island Sound and Block Island Sound constitute, in whole or in part, a juridical bay under the provisions of the Convention on the Territorial Sea and the Contiguous Zone (the Convention).¹ To the extent the Sounds constitute a juridical bay, the waters of that bay, under the Convention, are then internal waters subject to the jurisdiction of the adjacent States, and the line that closes the bay is coastline for the purpose of fixing the seaward boundaries of the States.

The Special Master concluded (a) that the Sounds in part do constitute a juridical bay, and (b) that the bay closes at the line drawn from Montauk Point, at the eastern tip of Long Island, to Watch Hill Point on the Rhode Island shore. We have independently reviewed the voluminous record, as we must, see *Mississippi v. Arkansas*, 415 U. S. 289, 291-292, 294 (1974); *Colorado v. New Mexico*, — U. S. —, — (1984) (slip op. 6), and find ourselves in agreement with the Special Master. We therefore adopt the Master's findings,

¹[1964] 15 U. S. T. (pt. 2) 1607, T. I. A. S. No. 5639. See *United States v. Louisiana (Louisiana Boundary Case)*, 394 U. S. 11, 16, n. 7 (1969).

Join

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STYLISTIC CHANGES

4 p. 13

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

From: **Justice Blackmun**

Circulated: _____

Recirculated: **JAN 22 1985**

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 35 Orig.

**UNITED STATES v. MAINE ET AL. (RHODE ISLAND
AND NEW YORK BOUNDARY CASE)**

ON EXCEPTIONS TO REPORT OF SPECIAL MASTER

[January —, 1985]

JUSTICE BLACKMUN delivered the opinion of the Court.

These Supplemental Proceedings in this wide-ranging litigation are to determine the legal coastline of the United States in the area of Block Island Sound and the eastern portion of Long Island Sound. That determination turns on whether Long Island Sound and Block Island Sound constitute, in whole or in part, a juridical bay under the provisions of the Convention on the Territorial Sea and the Contiguous Zone (the Convention).¹ To the extent the Sounds constitute a juridical bay, the waters of that bay, under the Convention, are then internal waters subject to the jurisdiction of the adjacent States, and the line that closes the bay is coastline for the purpose of fixing the seaward boundaries of the States.

The Special Master concluded (a) that the Sounds in part do constitute a juridical bay, and (b) that the bay closes at the line drawn from Montauk Point, at the eastern tip of Long Island, to Watch Hill Point on the Rhode Island shore. We have independently reviewed the voluminous record, as we must, see *Mississippi v. Arkansas*, 415 U. S. 289, 291-292, 294 (1974); *Colorado v. New Mexico*, — U. S. —, — (1984) (slip op. 6), and find ourselves in agreement with the Special Master. We therefore adopt the Master's findings,

¹[1964] 15 U. S. T. (pt. 2) 1607, T. I. A. S. No. 5639. See *United States v. Louisiana (Louisiana Boundary Case)*, 394 U. S. 11, 16, n. 7 (1969).

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

89 JAN 24 1985

January 24, 1985

Memorandum to the Conference

Re: No. 35 Orig., Rhode Island and New York Boundary Case

So that I may avoid getting into deeper difficulty with the New Yorkers around here, I am changing the first sentence of the second full paragraph on page 13 to read: "The western end of Long Island helps form an integral part of the familiar outline of New York Harbor." Far be it from me to neglect Staten Island and other well-known points for those who come from east of the Hudson.

H.A.B.

—

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H1

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 21, 1985

MEMORANDUM TO THE CONFERENCE

Re: Hold for No. 35 Orig. - United States v. Maine
(Rhode Island and New York Boundary Case)

The only case being held is the ancient one, No. 75-6990, Ball v. Dunlap. We described this case in the February 19th opinion, slip op. 3:

"[P]ilots licensed by Connecticut challenged a Rhode Island statute which requires every [out of state vessel] that traverses Block Island Sound to take on a pilot licensed by the Rhode Island Pilotage Commission. The District Court in that suit ruled that Rhode Island possessed the authority so to regulate pilotage in the Sound. Its theory was that the State had that authority under 46 U.S.C. §211, a statute which gives the States power to regulate pilots in 'bays, inlets, rivers, harbors, and ports of the United States.' In so ruling, the court determined that Block Island Sound was a bay under the Convention [on the Territorial Sea and the Contiguous Zone] and therefore qualified as internal waters within Rhode Island's coastline. The United States Court of Appeals for the First Circuit affirmed that judgment."

Petitioner, a pilot, contends (1) that Block Island Sound is not a juridical bay; (2) that even if Block Island Sound is a juridical bay, Rhode Island is nonetheless not entitled to regulate activity outside its territorial boundaries, which petitioner seems incorrectly to define; and (3) even if Block Island is a juridical bay, petitioner's Connecticut license should be valid for trips traversing Block Island Sound en route to and from Connecticut.

The second and third contentions seem to me to have been correctly resolved by the CA1. Our decision of February 19, however, takes care of petitioner's first contention by holding that the waters of Block Island Sound east of the line from Montauk Point to Watch Hill Point are territorial waters and high seas. Because the CA1 affirmed a determination that all of Block Island Sound was a juridical bay belonging to the adjacent States, see 532 F.2d 767, 769, n. 9 (1976), I shall vote to GVR for reconsideration in the light of our decision this month in No. 35 Original.

H.A.B.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 12, 1985

35 Orig. United States v. Maine

Dear Harry:

Please join me.

Sincerely,

Lewis

Justice Blackmun

lfp/ss

cc: The Conference

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(10)

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 15, 1985

Re: No. 35 Original United States v. Maine

Dear Harry,

Please join me.

Sincerely,

WR

Justice Blackmun

cc: The Conference

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CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

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

January 11, 1985

RE: 35 Original - United States v. Maine, et al.

Dear Harry:

Please join me.

Respectfully,

Justice Blackmun

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25:04 AT 141. 48.

25:04
25:04

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W

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

January 11, 1986

No. 35 Orig. United States v. Maine

Dear Harry,

Please join me.

Sincerely,



Justice Blackmun

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