

The Burger Court Opinion Writing Database

Atkins v. Parker

472 U.S. 115 (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

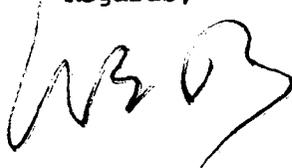
May 6, 1985

Re: (83-1660 - Atkins v. Gill Parker
(
(83-6381 - Gill Parker v. Block, Secretary, Department of Agriculture,
et al.

Dear John:

I join.

Regards,



Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

December 7, 1984

No. 83-1660) Atkins v. Parker
)
No. 83-6381) Parker v. Block

Dear Thurgood,

You and I are the only dissenters
in the above. I'm willing to take on
the dissent.

Sincerely,

Bill

Justice Marshall

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

From: Justice Brennan

Circulated: _____

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1660 AND 83-6381

CHARLES M. ATKINS, COMMISSIONER OF THE
 MASSACHUSETTS DEPARTMENT OF PUBLIC
 WELFARE, PETITIONER

83-1660

v.

GILL PARKER ET AL.

GILL PARKER, ET AL., PETITIONERS

83-6381

v.

JOHN R. BLOCK, SECRETARY, DEPARTMENT OF
 AGRICULTURE, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
 APPEALS FOR THE FIRST CIRCUIT

[May —, 1985]

JUSTICE BRENNAN, dissenting.

When the Massachusetts Department of Public Welfare (Department) implemented the 1981 statutory reduction in food stamp benefits for persons with earned income, it sent out form notices telling over 16,000 recipients that their benefits would be "reduced . . . or . . . terminated" without specifying which which. App. 5. The notices contained no information about any particular recipient's case. The District Court declared the notices unlawful under the Due Process Clause as well as the relevant regulation and statute "because . . . [they] did not contain the individual recipient's old food stamp benefit amount, new benefit amount, or the amount of earned income that was being used to compute the change."¹ The Court of Appeals agreed, finding the notices

¹ Order, *Foggs v. Block*, No. 81-0365-F, at 2 (D. Mass. 1982), reprinted in App. to Pet. for Cert. in No. 83-1660 (hereinafter "Pet. App."), at 100.

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES:

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

From: Justice Brennan

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May 31, 1985

SUPREME COURT OF THE UNITED STATES

Nos. 83-1660 AND 83-6381

CHARLES M. ATKINS, COMMISSIONER OF THE
MASSACHUSETTS DEPARTMENT OF PUBLIC
WELFARE, PETITIONER

83-1660

v.

GILL PARKER ET AL.

GILL PARKER, ET AL., PETITIONERS

83-6381

v.

JOHN R. BLOCK, SECRETARY, DEPARTMENT OF
AGRICULTURE, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT

[June 6, 1985]

JUSTICE BRENNAN, dissenting.

When the Massachusetts Department of Public Welfare (Department) implemented the 1981 statutory reduction in food stamp benefits for persons with earned income, it sent out form notices telling over 16,000 recipients that their benefits would be "reduced . . . or . . . terminated" without specifying which which. App. 5. The notices contained no information about any particular recipient's case. The District Court declared the notices unlawful under the Due Process Clause as well as the relevant regulation and statute "because . . . [they] did not contain the individual recipient's old food stamp benefit amount, new benefit amount, or the amount of earned income that was being used to compute the change."¹ The Court of Appeals agreed, finding the notices

¹Order, *Foggs v. Block*, No. 81-0365-F, p. 2 (Mass. Mar. 24, 1982), reprinted in App. to Pet. for Cert. in No. 83-1660, p. 100 (hereinafter Pet.

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 25, 1985

83-1660 and 83-6381 -

Atkins v. Parker

Parker v. Block

Dear John,

I agree.

Sincerely yours,



Justice Stevens

Copies to the Conference

Justice White
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice Stevens
 Justice O'Connor

From: **Justice Marshall**

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1660 AND 83-6381

CHARLES M. ATKINS, COMMISSIONER OF THE
 MASSACHUSETTS DEPARTMENT OF PUBLIC
 WELFARE, PETITIONER

83-1660

v.

GILL PARKER ET AL.

GILL PARKER, ET AL., PETITIONERS

83-6381

v.

JOHN R. BLOCK, SECRETARY, DEPARTMENT OF
 AGRICULTURE, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
 APPEALS FOR THE FIRST CIRCUIT

[May —, 1985]

JUSTICE MARSHALL, dissenting.

I share JUSTICE BRENNAN's view that the logic of the relevant regulation, 7 CFR § 273.12(e)(2)(ii), requires the sort of notice that the lower courts ordered here. The regulation contemplates a notice that allows families to "adjust household budgets" according to changes in benefit levels, and I fail to see how a notice that does not inform recipients of their new benefit levels can serve this purpose. Given that this interpretation of the regulation disposes of the case, I find no need to reach the other issues addressed by the Court or by the dissent. I therefore join only Part I of JUSTICE BRENNAN's dissent.

Justice Brennan
Justice White
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice Marshall**

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1660 AND 83-6381

**CHARLES M. ATKINS, COMMISSIONER OF THE
MASSACHUSETTS DEPARTMENT OF PUBLIC
WELFARE, PETITIONER**

83-1660

v.

GILL PARKER ET AL.

GILL PARKER, ET AL., PETITIONERS

83-6381

v.

**JOHN R. BLOCK, SECRETARY, DEPARTMENT OF
AGRICULTURE, ET AL.**

**ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT**

[May —, 1985]

JUSTICE MARSHALL, dissenting.

I share JUSTICE BRENNAN's view that the logic of the relevant regulation, 7 CFR § 273.12(e)(2)(ii), requires the sort of notice that the lower courts ordered here. The regulation contemplates a notice that allows families to "adjust household budgets" according to changes in benefit levels, 43 Fed. Reg. 18896 (1978), and I fail to see how a notice that does not inform recipients of their new benefit levels can serve this purpose. Given that this interpretation of the regulation disposes of the case, I find no need to reach the other issues addressed by the Court or by the dissent. I therefore join Part I of JUSTICE BRENNAN's dissent.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 22, 1985

Re: No. 83-1660) Atkins v. Parker
No. 83-6381) Parker v. Block

Dear John:

Please join me.

Sincerely,

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

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 5, 1985

Re: Atkins v. Parker, Nos. 83-1660 & 83-6381.

Dear John,

Although I agree with much of your opinion, I have one concern. On page 12, you reject the argument that "inadvertent errors" might give rise to a due process claim. You reason that since the agency, by definition, does not anticipate such errors it cannot be required to provide notice. At least some of our procedural due process cases, however, have involved "inadvertent errors." See Mathews v. Eldridge, 424 U.S. 319 (1976); Goldberg v. Kelly, 397 U.S. 254 (1970). And if, as in Goldberg, the risk of inadvertent error gives rise to a right to a pre-termination evidentiary hearing, it would seem that this risk could also give rise to enhanced notice.

This is not to say that I believe additional notice is required in this case. I do not. I believe only that under our prior cases it is at least arguable that such a claim can rest on the risk of erroneous deprivation resulting from inadvertent error. I am concerned to the extent that the present discussion on page 12 appears to indicate otherwise.

It seems unnecessary in this case to distinguish between inadvertent and other kinds of errors. If you could dispose of the "inadvertent error" claim under traditional Mathews v. Eldridge analysis or demonstrate why this analysis should not apply here, I would be happy to join your opinion.

Sincerely,

L.F.P.

L.F.P., Jr.

84 MAR 2 1985

cc: The Conference

April 19, 1985

83-1660 Atkins v. Parker

Dear John:

I am circulating a join note, and write to say that I should have done this sooner.

I lost sight of the file. I appreciate your making changes that substantially met my concerns.

Sincerely,

Justice Stevens

lfp/ss

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



CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 19, 1985

83-1660 Atkins v. Parker

Dear John:

Please join me.

Sincerely,

Justice Stevens

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 27, 1985

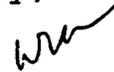
Re: No. 83-1660) Atkins v. Parker
83-6381) Parker v. Block

Dear John,

I have only a minor reservation about your opinion, and I may well join regardless of whether you follow my suggestion with respect to it. On page 12, your final paragraph speaks of food stamp benefits, like the welfare benefits at issue in Goldberg v. Kelly, as being a matter of statutory entitlement for persons qualified to receive them, quoting from Goldberg. You go on to say that the procedures employed in determining whether an individual is entitled to participate in the statutory program must comply with the commands of the Constitution. I think both Goldberg, and Mathews v. Eldridge, which you cite in a footnote to this paragraph, dealt with decisions to terminate eligibility, and I don't know that we have ever held that the initial decision to grant someone food stamps or welfare benefits is a "property right"; indeed, it is hard to figure out how it could be.

Since what you say in this paragraph is dicta given your ultimate disposition of the case, my reservation may not be all that important, but I would appreciate your considering making some change in the language in the paragraph to conform it more to the holdings in Goldberg and Mathews.

Sincerely,



Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 1, 1985

Re: No. 83-1660) Atkins v. Parker
83-6381) Parker v. Block

Dear John,

Please join me.

Sincerely,



Justice Stevens

cc: The Conference

84 - 1 - 15

Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: **Justice Stevens**

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1660 AND 83-6381

CHARLES M. ATKINS, COMMISSIONER OF THE
MASSACHUSETTS DEPARTMENT OF PUBLIC
WELFARE, PETITIONER

83-1660

v.

GILL PARKER ET AL.

GILL PARKER, ET AL., PETITIONERS

83-6381

v.

JOHN R. BLOCK, SECRETARY, DEPARTMENT OF
AGRICULTURE, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT

[February —, 1985]

JUSTICE STEVENS delivered the opinion of the Court.

In November, and again in December, 1981, the Massachusetts Department of Public Welfare mailed a written notice to over 16,000 recipients advising them that a recent change in federal law might result in either a reduction or a termination of their food-stamp benefits. The notice did not purport to explain the precise impact of the change on each individual recipient. The question this case presents is whether that notice violated any federal statute or regulation, or the Due Process Clause of the Fourteenth Amendment. Unlike the District Court and the Court of Appeals, we conclude that there was no violation.

In an attempt to "permit low-income households to obtain a more nutritious diet through normal channels of trade,"¹ Congress created a federally subsidized food-stamp program.

¹7 U. S. C. § 2011.

W. J. Brennan

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

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 15

From: Justice Stevens

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1660 AND 83-6381

CHARLES M. ATKINS, COMMISSIONER OF THE
MASSACHUSETTS DEPARTMENT OF PUBLIC
WELFARE, PETITIONER

83-1660

v.

GILL PARKER ET AL.

GILL PARKER, ET AL., PETITIONERS

83-6381

v.

JOHN R. BLOCK, SECRETARY, DEPARTMENT OF
AGRICULTURE, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT

[March —, 1985]

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¹7 U. S. C. § 2011.

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

7.12

From: Justice Stevens

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1660 AND 83-6381

CHARLES M. ATKINS, COMMISSIONER OF THE
MASSACHUSETTS DEPARTMENT OF PUBLIC
WELFARE, PETITIONER

83-1660

v.

GILL PARKER ET AL.

GILL PARKER, ET AL., PETITIONERS

83-6381

v.

JOHN R. BLOCK, SECRETARY, DEPARTMENT OF
AGRICULTURE, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT

[March —, 1985]

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In an attempt to "permit low-income households to obtain a more nutritious diet through normal channels of trade,"¹ Congress created a federally subsidized food-stamp program.

¹7 U. S. C. § 2011.

Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

7.12

From: **Justice Stevens**

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4th DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1660 AND 83-6381

CHARLES M. ATKINS, COMMISSIONER OF THE
MASSACHUSETTS DEPARTMENT OF PUBLIC
WELFARE, PETITIONER

83-1660

v.

GILL PARKER ET AL.

GILL PARKER, ET AL., PETITIONERS

83-6381

v.

JOHN R. BLOCK, SECRETARY, DEPARTMENT OF
AGRICULTURE, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT

[March —, 1985]

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¹ 7 U. S. C. § 2011.

TO: THE CHIEF JUSTICE

Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

stylistic changes only

From: **Justice Stevens**

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5th DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1660 AND 83-6381

**CHARLES M. ATKINS, COMMISSIONER OF THE
MASSACHUSETTS DEPARTMENT OF PUBLIC
WELFARE, PETITIONER**

83-1660

v.

GILL PARKER ET AL.

GILL PARKER, ET AL., PETITIONERS

83-6381

v.

**JOHN R. BLOCK, SECRETARY, DEPARTMENT OF
AGRICULTURE, ET AL.**

**ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT**

[May —, 1985]

JUSTICE STEVENS delivered the opinion of the Court.

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In an attempt to "permit low-income households to obtain a more nutritious diet through normal channels of trade,"¹ Congress created a federally subsidized food-stamp program.

¹7 U. S. C. § 2011.

✓

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

February 27, 1985

No. 83-1660 Atkins v. Gill Parker
No. 83-6381 Parker v. Block

Dear John,

Please join me.

Sincerely,



Justice Stevens

Copies to the Conference 21 83 6381