

The Burger Court Opinion Writing Database

Lindahl v. Office of Personnel Management

470 U.S. 768 (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

March 5, 1985

Re: No. 83-5954 - Wayne Lindahl v. OPM

Dear Byron,

I join your dissent.

Regards,



Justice White

Copies to the Conference

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[Handwritten initials]

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

December 7, 1984

Dear Chief,

John has agreed to try his hand at an opinion for the Court in No. 83-812, Wallace v. Jaffree, and No. 83-929, Smith v. Jaffree. I'll undertake to do so in No. 83-5954, Lindahl v. OPM.

Sincerely,

[Handwritten signature]

The Chief Justice

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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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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-5954

**WAYNE LINDAHL v. OFFICE OF PERSONNEL
MANAGEMENT**

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

[February —, 1985]

JUSTICE BRENNAN delivered the opinion of the Court.

The Office of Personnel Management (OPM) "determine[s] questions of disability and dependency" in administering the Federal Government's provision of annuities to retired employees and their dependents. 5 U. S. C. § 8347(c). Subject to administrative review by the Merit Systems Protection Board (MSPB), § 8347(d)(1), OPM's "decisions . . . concerning these matters are final and conclusive and are not subject to review," § 8347(c). This case presents two questions of substantial importance to the administration of the Government's retirement annuity program. The first is whether § 8347(c) bars judicial review altogether of an MSPB judgment affirming the denial by OPM of a disability retirement claim, or bars review only of *factual* determinations while permitting review for alleged errors of law and procedure. If judicial review is available to the latter, limited extent, a second question arises: whether the United States Court of Appeals for the Federal Circuit has jurisdiction directly to review MSPB decisions in such cases, or whether an applicant whose appeal is rejected by the MSPB must instead file a Tucker Act claim in the United States Claims Court or a United States district court, from which an appeal could then be taken to the Federal Circuit.

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Jan 7

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To: The Chief Justice
Justice White
Justice Marshall
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Justice Stevens
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STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: _____

From: Justice Brennan

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-5954

WAYNE LINDAHL *v.* OFFICE OF PERSONNEL
MANAGEMENT

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

[February —, 1985]

JUSTICE BRENNAN delivered the opinion of the Court.

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STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: FNG 13 & ACCOMPANYING
TEXT DELETED; FNG.
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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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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-5954

**WAYNE LINDAHL v. OFFICE OF PERSONNEL
MANAGEMENT**

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

[February —, 1985]

JUSTICE BRENNAN delivered the opinion of the Court.

The Office of Personnel Management (OPM) "determine[s] questions of disability and dependency" in administering the Federal Government's provision of annuities to retired employees and their dependents. 5 U. S. C. § 8347(c). Subject to administrative review by the Merit Systems Protection Board (MSPB), § 8347(d)(1), OPM's "decisions . . . concerning these matters are final and conclusive and are not subject to review," § 8347(c). This case presents two questions of substantial importance to the administration of the Government's retirement annuity program. The first is whether § 8347(c) bars judicial review altogether of an MSPB judgment affirming the denial by OPM of a disability retirement claim, or bars review only of *factual* determinations while permitting review for alleged errors of law and procedure. If judicial review is available to the latter, limited extent, a second question arises: whether the United States Court of Appeals for the Federal Circuit has jurisdiction directly to review MSPB decisions in such cases, or whether an applicant whose appeal is rejected by the MSPB must instead file a Tucker Act claim in the United States Claims Court or a United States district court, from which an appeal could then be taken to the Federal Circuit.

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

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SEE PAGES: 16-20;

footnotes renumbered

From: Justice Brennan

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4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-5954

WAYNE LINDAHL *v.* OFFICE OF PERSONNEL
MANAGEMENT

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

[February —, 1985]

JUSTICE BRENNAN delivered the opinion of the Court.

The Office of Personnel Management (OPM) "determine[s] questions of disability and dependency" in administering the Federal Government's provision of annuities to retired employees and their dependents. 5 U. S. C. § 8347(c). Subject to administrative review by the Merit Systems Protection Board (MSPB), § 8347(d)(1), OPM's "decisions . . . concerning these matters are final and conclusive and are not subject to review," § 8347(c). This case presents two questions of substantial importance to the administration of the Government's retirement annuity program. The first is whether § 8347(c) bars judicial review altogether of an MSPB judgment affirming the denial by OPM of a disability retirement claim, or bars review only of *factual* determinations while permitting review for alleged errors of law and procedure. If judicial review is available to the latter, limited extent, a second question arises: whether the United States Court of Appeals for the Federal Circuit has jurisdiction directly to review MSPB decisions in such cases, or whether an applicant whose appeal is rejected by the MSPB must instead file a Tucker Act claim in the United States Claims Court or a United States district court, from which an appeal could then be taken to the Federal Circuit.

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

March 20, 1985

MEMORANDUM TO THE CONFERENCE

Cases Held for No. 83-5954

Lindahl v. Office of Personnel Management

We held four cases pending resolution of Lindahl:

1. No. 83-2101, Daniel v. Office of Personnel Management
2. No. 83-6034, Swanson v. Office of Personnel Management
3. No. 83-6093, Gates v. Merit Systems Protection Board
4. No. 83-6440, Smith v. Office of Personnel Management

In each of these cases the OPM denied a retired federal employee's claim of entitlement to a disability retirement annuity, the Merit Systems Protection Board affirmed the OPM's decision, and the Court of Appeals for the Federal Circuit dismissed for want of jurisdiction pursuant to its decision in Lindahl. Although several of the petitioners here appear to challenge the evidentiary underpinnings of the agency decisions below, each of them also contends that the OPM and/or the MSPB violated various "legal" or "procedural" requirements in the course of denying benefits (i.e., burdens of proof, proper interpretation of a "good cause" exception to filing deadlines, alleged requirement of enhanced procedures where employee retires involuntarily, significance of alleged violations of contract rights, etc.). Although many if not all of these arguments may well lack any merit, the Federal Circuit dismissed each case solely on Lindahl's jurisdictional grounds, and the Solicitor General has not shown that dismissal of any of these appeals would have been appropriate even if the judgment of the Court of Appeals in Lindahl were reversed.

Accordingly, I shall vote to grant certiorari in each of these four cases, vacate the judgment of the Federal Circuit in

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 16, 1985

83-5954 - Lindahl v. OPM

Dear Bill,

In due course, I shall circulate a
dissent in this case.

Sincerely yours,



Justice Brennan

Copies to the Conference

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

From: Justice White

Circulated: MAR 4 1985

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-5954

**WAYNE LINDAHL v. OFFICE OF PERSONNEL
MANAGEMENT**

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

[March —, 1985]

JUSTICE WHITE, dissenting.

Title 5 U. S. C. § 8347(c) states:

“The Office [of Personnel Management] shall determine questions of disability and dependency arising under this subchapter. Except to the extent provided under subsection (d) of this section, the decisions of the Office concerning these matters are final and conclusive and are not subject to review.”

The majority concedes that in cases like petitioner's, subsection (d) of 5 U. S. C. § 8347 provides only for review of OPM's decisions by the Merit Systems Protection Board (MSPB). Nonetheless, the majority concludes that notwithstanding the review preclusion provision of § 8347(c), petitioner is entitled to judicial review of the denial of his claim for disability retirement benefits. In the view of the majority, § 8347(c) must be interpreted to preclude judicial review only of OPM's factual determinations, not of questions of law. Because I consider the exercise in statutory construction that supports this conclusion fundamentally unsound, I dissent.

The majority begins by asserting that the language of the statute is ambiguous, as it “quite naturally can be read as precluding review only of OPM's *factual* determinations about ‘questions of disability and dependency.’” *Ante*, at 9. With all due respect, I confess that I cannot understand how



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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 8, 1985

Re: No. 83-5954-Lindahl v. OPM

Dear Bill:

Please join me.

Sincerely,

T.M.

Justice Brennan

cc: The Conference

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ny

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 8, 1985

Re: No. 83-5954, Lindahl v. Office of Personnel Management

Dear Bill:

Please join me.

Sincerely,



Justice Brennan

cc: The Conference

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Washington, D. C. 20543

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CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 14, 1985

83-5954 Lindahl v. Office of Personnel Management

Dear Bill:

Please join me.

Sincerely,

Lewis

Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 5, 1985

Re: 83-5954 - Lindahl v. OPM

Dear Byron:

Please join me in your dissent.

Sincerely,

WHR

Justice White

cc: The Conference

31 MAR 2 1985

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

February 5, 1985

Re: 83-5954 - Lindahl v. OPM

Dear Bill:

Please join me.

Respectfully,

Justice Brennan

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Washington, D. C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 4, 1985

No. 83-5954 Lindahl v. Office of Personnel Management

Dear Bill,

My vote at Conference on this case was tentative.
I have now concluded I will join the dissent.

Sincerely,

Sandra

Justice Brennan

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 4, 1985

No. 83-5954 Lindahl v. Office of Personnel Management

Dear Byron,

Please join me in your dissenting opinion.

Sincerely,



Justice White

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