

The Burger Court Opinion Writing Database

Garcia v. United States

469 U.S. 70 (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

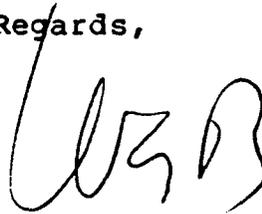
October 30, 1984

Re: No. 83-6061 - Jose Garcia and Francisco Garcia v.
United States

Dear Bill:

I join.

Regards,

A handwritten signature in dark ink, appearing to be 'WRB', written over the typed word 'Regards,'.

Justice Rehnquist

Copies to the Conference

M

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

October 15, 1984

No. 83-6061

Garcia v. United States

Dear John,

Thurgood, you and I are in the
dissent in the above. Would you handle
the dissent?

Sincerely,

Beil

Justice Stevens

Copy to Justice Marshall

84 OCT 12 11:51

203
206

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

December 3, 1984

No. 83-6061

Garcia v. United States

Dear John,

Please join me in your dissent.

Sincerely,



Justice Stevens

Copies to the Conference

84 NOV 33 61:53

1984
NOV 30

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

October 29, 1984

83-6061 - Garcia and Garcia v. United States

Dear Bill,

Please join me.

Sincerely yours,



Justice Rehnquist

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

October 30, 1984

Re: No. 83-6061-Garcia v. United States

Dear Bill:

I await the dissent.

Sincerely,

J.M.

T.M.

Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 3, 1984

Re: No. 83-6061 - Garcia v. United States

Dear John:

Please join me in your dissent.

Sincerely,

J.M.
T.M.

Justice Stevens

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

October 29, 1984

Re: No. 83-6061, Garcia v. United States

Dear Bill:

I voted with you to affirm the judgment in this case and, undoubtedly, I shall end up in that position. I have some minor difficulties, however, with the opinion presently circulating:

1. I have some problem with the first paragraph on page 4. I am not sure that the second sentence correctly states the position of the petitioners. Neither am I certain about the lack of specificity on their part.

2. I also have problems with the first paragraph on page 5. I could not say so flatly that the statutory language has "a plain and unambiguous meaning." Certainly, Henry Friendly did not think so and neither do three of our colleagues.

3. I question the accuracy of the second part of the final sentence of the second paragraph on page 5. The statute has not "remained unchanged since the 1935 Amendment." It was revised in minor particulars in 1948, although, of course, those changes reflected no substantive revision.

4. Should we give the citation of the opinion below?

Sincerely,



Justice Rehnquist

cc: The Conference

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20543

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 1, 1984

Re: No. 83-6061, Garcia v. United States

Dear Bill:

Thank you for your generally favorable response to the concerns expressed in my note of October 29. I feel that the changes in what is now the first paragraph on page 4 and the first full sentence on page 6 help and improve your opinion.

I mentioned the absence of a citation of the opinion of the court below because, in its form in footnote 2, it gave the appearance of being only a jump cite. I take it you wish to omit it completely from the text.

I am still concerned about the statement, now on page 5, that we are satisfied that the statutory language has a plain and unambiguous meaning. Certainly this very litigation would indicate otherwise. For now, I shall await the dissent, and then may write a brief paragraph, perhaps by way of separate concurrence.

Sincerely,

H.A.B.

Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 4, 1984

Re: No. 83-6061, Garcia v. United States

Dear Bill:

Please join me.

Sincerely,



Justice Rehnquist

cc: The Conference

DEC 04 1984

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

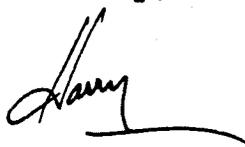
December 4, 1984

Re: No. 83-6061, Garcia v. United States

Dear Bill:

Please join me.

Sincerely,



Justice Rehnquist

cc: The Conference

[Note to Justice Rehnquist Only:]

Because I am an old fussbudget, I still think the case in the Court of Appeals deserves a citation in the text rather than by way of a collateral reference in footnote 2. In paragraph 4 of your letter of October 30 you stated that it would be included after the penultimate sentence on the first paragraph on page 1. This will contribute to the happiness of Henry Lind.



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W

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

October 29, 1984

83-6061 Garcia v. United States

Dear Bill:

Please join me.

Sincerely,

Lewis

Justice Rehnquist

Copies to the Conference

LFP/vde

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

From: Justice Rehnquist

Circulated: OCT 27 1984

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WHR
I want the dissent
JM

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-6061

JOSE GARCIA AND FRANCISCO GARCIA,
PETITIONERS *v.* UNITED STATES

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

[October —, 1984]

JUSTICE REHNQUIST delivered the opinion of the Court.

Petitioners assaulted an undercover United States Secret Service Agent with a loaded pistol, in an attempt to rob him of \$1,800 of government "flash money" that the agent was using to buy counterfeit currency from them. They were convicted of violating 18 U. S. C. § 2114 (1982), which proscribes the assault and robbery of any custodian of "mail matter, or of any money or other property" of the United States. The United States Court of Appeals for the Eleventh Circuit affirmed petitioners' convictions, over their contention that § 2114 is limited to crimes involving the Postal Service. We granted certiorari, — U. S. —, to resolve a split in the circuits concerning the reach of § 2114,¹ and we affirm.

Agent K. David Holmes of the United States Secret Service posed as someone interested in purchasing counterfeit currency. He met petitioners Jose and Francisco Garcia in a park in Miami, Florida. Petitioners agreed to sell Holmes a large quantity of counterfeit currency, and asked that he show them the genuine currency he intended to give in exchange. He "flashed" the \$1,800 dollars of money which he

¹ See *United States v. Reid*, 517 F. 2d 953 (2d Cir. 1975); *United States v. Rivera*, 513 F. 2d 519 (2nd Cir.), cert. denied, 423 U. S. 948 (1975); *United States v. Fernandez*, 497 F. 2d 730 (9th Cir. 1974), cert. denied, 420 U. S. 990 (1975).

NO
Dissent by 1/2 PS

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

October 30, 1984

Re: No. 83-6061 Garcia v. United States

Dear Harry:

Thank you for your letter of October 29th, outlining four "minor difficulties" which you have with my presently circulating opinion in this case. I think I can revise it in such a way that will solve three out of the four difficulties.

1. The second sentence on page four attempts to state petitioners' contention found on page three of their reply brief. Beginning with that sentence, I could amend the first paragraph to read as follows:

Petitioners first claim that the conjunction "or" cannot properly be read to totally separate the three types of property listed in the prohibition; for if the word "or" indeed strictly separates the three types of property, the statute would proscribe assaults on custodians of any "money," whether or not it was money belonging to the United States, because the term "money" would not be modified or restricted by the term "of the United States" which follows the word "property." Thus Congress would have enacted a law, say petitioners, proscribing assaults on custodians of money by whomever owned, and "Congress would then have enacted a Federal robbery statute without any jurisdictional basis." Pet. R. Br., 3. Because Congress could not have intended this absurd result, petitioners contend, there is an ambiguity in the statutory language. This contention, however, totally ignores the word "other" which follows "money" and shows that the money referred to, like the property referred to, is money belonging to the United States.

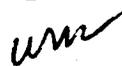
2. I am unwilling to retreat from the proposition that the statutory language has "a plain and unambiguous meaning." My reading of Judge Friendly's opinions in Reid and Rivera confirms the view expressed in the presently circulating opinion that his principle reliance was on the history behind the adoption of the 1935 amendment; in Rivera, I think he comes close to conceding the clarity of the language, but then declines to apply the traditional "plain meaning." I do not know what our three dissenting colleagues will have to say about the meaning of the statutory language, but at present I am satisfied with the language contained in the circulating opinion.

3. I think your suggestion with respect to the 1948 revision is correct, and I will amend the last sentence in the penultimate paragraph on page five to read: "...With the exception of minor particulars the text of the statute has remained unchanged since the 1935 amendment."

4. The citation to the opinion of the Court of Appeals is in footnote two. I will leave it there, but also include it after the penultimate sentence in the first paragraph on page one.

Whether or not you decide to "join" the opinion, I will make the changes described in paragraphs one and three above, because I think they will improve the opinion. But in order to give you an inducement to join I shall leave you up in the air as to the change discussed in paragraph four, above, and if you do not join I may leave the opinion just as it presently is in that respect.

Sincerely,



Justice Blackmun

cc: The Conference

03:51 30 001 84

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pp d, b

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

From: Justice Rehnquist

Circulated: _____

Recirculated: OCT 30 1984

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-6061

JOSE GARCIA AND FRANCISCO GARCIA,
PETITIONERS *v.* UNITED STATES

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

[November —, 1984]

JUSTICE REHNQUIST delivered the opinion of the Court.

Petitioners assaulted an undercover United States Secret Service Agent with a loaded pistol, in an attempt to rob him of \$1,800 of government "flash money" that the agent was using to buy counterfeit currency from them. They were convicted of violating 18 U. S. C. § 2114 (1982), which proscribes the assault and robbery of any custodian of "mail matter, or of any money or other property" of the United States. The United States Court of Appeals for the Eleventh Circuit affirmed petitioners' convictions, over their contention that § 2114 is limited to crimes involving the Postal Service. We granted certiorari, — U. S. —, to resolve a split in the circuits concerning the reach of § 2114,¹ and we affirm.

Agent K. David Holmes of the United States Secret Service posed as someone interested in purchasing counterfeit currency. He met petitioners Jose and Francisco Garcia in a park in Miami, Florida. Petitioners agreed to sell Holmes a large quantity of counterfeit currency, and asked that he show them the genuine currency he intended to give in exchange. He "flashed" the \$1,800 dollars of money which he

¹ See *United States v. Reid*, 517 F. 2d 953 (2d Cir. 1975); *United States v. Rivera*, 513 F. 2d 519 (2d Cir.), cert. denied, 423 U. S. 948 (1975); *United States v. Fernandez*, 497 F. 2d 730 (9th Cir. 1974), cert. denied, 420 U. S. 990 (1975).

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only throughout

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

From: Justice Rehnquist

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Recirculated: 11/1/84

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-6061

JOSE GARCIA AND FRANCISCO GARCIA,
PETITIONERS *v.* UNITED STATES

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

[November —, 1984]

JUSTICE REHNQUIST delivered the opinion of the Court.

Petitioners assaulted an undercover United States Secret Service agent with a loaded pistol, in an attempt to rob him of \$1,800 of Government "flash money" that the agent was using to buy counterfeit currency from them. They were convicted of violating 18 U. S. C. §2114, which proscribes the assault and robbery of any custodian of "mail matter, or of any money or other property" of the United States. The United States Court of Appeals for the Eleventh Circuit affirmed petitioners' convictions, over their contention that §2114 is limited to crimes involving the Postal Service. We granted certiorari, — U. S. —, to resolve a split in the Circuits concerning the reach of §2114,¹ and we affirm.

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PP 7, 8

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

From: Justice Rehnquist

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4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-6061

**JOSE GARCIA AND FRANCISCO GARCIA,
PETITIONERS v. UNITED STATES**

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

[December —, 1984]

JUSTICE REHNQUIST delivered the opinion of the Court.

Petitioners assaulted an undercover United States Secret Service agent with a loaded pistol, in an attempt to rob him of \$1,800 of Government "flash money" that the agent was using to buy counterfeit currency from them. They were convicted of violating 18 U. S. C. § 2114, which proscribes the assault and robbery of any custodian of "mail matter, or of any money or other property" of the United States. The United States Court of Appeals for the Eleventh Circuit affirmed petitioners' convictions, over their contention that § 2114 is limited to crimes involving the Postal Service. We granted certiorari, — U. S. —, to resolve a split in the Circuits concerning the reach of § 2114,¹ and we affirm.

Agent K. David Holmes of the United States Secret Service posed as someone interested in purchasing counterfeit currency. He met petitioners Jose and Francisco Garcia in a park in Miami, Fla. Petitioners agreed to sell Holmes a large quantity of counterfeit currency, and asked that he show them the genuine currency he intended to give in exchange. He "flashed" the \$1,800 of money which he had

¹ See *United States v. Reid*, 517 F. 2d 953 (CA2 1975); *United States v. Rivera*, 513 F. 2d 519 (CA2), cert. denied, 423 U. S. 948 (1975); *United States v. Fernandez*, 497 F. 2d 730 (CA9 1974), cert. denied, 420 U. S. 990 (1975).

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p. 1 + 3

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

From: Justice Rehnquist

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5th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-6061

JOSE GARCIA AND FRANCISCO GARCIA,
PETITIONERS *v.* UNITED STATES

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

[December —, 1984]

JUSTICE REHNQUIST delivered the opinion of the Court.

Petitioners assaulted an undercover United States Secret Service agent with a loaded pistol, in an attempt to rob him of \$1,800 of Government "flash money" that the agent was using to buy counterfeit currency from them. They were convicted of violating 18 U. S. C. §2114, which proscribes the assault and robbery of any custodian of "mail matter, or of any money or other property" of the United States. The United States Court of Appeals for the Eleventh Circuit affirmed petitioners' convictions, over their contention that §2114 is limited to crimes involving the Postal Service. *United States v. Garcia*, 718 F. 2d 1528 (1983). We granted certiorari, — U. S. —, to resolve a split in the Circuits concerning the reach of §2114,¹ and we affirm.

Agent K. David Holmes of the United States Secret Service posed as someone interested in purchasing counterfeit currency. He met petitioners Jose and Francisco Garcia in a park in Miami, Fla. Petitioners agreed to sell Holmes a large quantity of counterfeit currency, and asked that he show them the genuine currency he intended to give in ex-

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JP

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

84 OCT 16 A9:10

October 15, 1984

Re: No. 83-6061 - Garcia v. United States

Dear Bill,

I'll be happy to undertake the dissent.

Respectfully,

J.P.

Justice Brennan

Copy to Justice Marshall

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

October 29, 1984

Re: 83-6061 - Garcia v. United States

Dear Bill:

Admittedly the plain language of the statute and the language of the committee reports support your position, and I agree that that should normally be the end of the case. I also agree with you that Bob Bork's concession as Solicitor General is not binding on the Court. Nevertheless, I remain persuaded that Congress did not actually intend this result and will try my hand at a brief dissent.

Respectfully,



Justice Rehnquist

Copies to the Conference

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

From: Justice Stevens

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Please join me in
your dissent
JH

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-6061

JOSE GARCIA AND FRANCISCO GARCIA,
PETITIONERS *v.* UNITED STATES

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

[December —, 1984]

JUSTICE STEVENS, dissenting.

demonstrably

When the literal application of a statute would produce a result "dramatically at odds with the intentions of its drafters," the actual legislative intent must control our disposition. See *Griffin v. Oceanic Contractors, Inc.*, 458 U. S. 564, 571 (1982). I believe a similar rule should apply to the literal application of a federal criminal statute that is dramatically broader than the coverage that its draftsmen intended.

I

A fair reading of the entire history of 18 U. S. C. §2114 convinces me that Congress never intended it to apply outside of the postal context. As the Court correctly notes, *ante*, at 5, §2114 "had its genesis as a law to protect mail carriers from assault and robbery of mail matter." The deterrent purpose of such a law justifies the imposition of especially severe sanctions. For that reason, heavy penalties have always been authorized, and sometimes mandated, for assaults upon mail carriers.

The Second Congress, recognizing the importance of the delivery of the mails, enacted the earliest predecessor to §2114 in 1792. That enactment, entitled "An Act to establish Post-Office and Post Roads within the United States,"¹

¹ Act of February 20, 1792, ch. 7, § 1, 1 Stat. 232.

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

From: Justice Stevens

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DEC 3 1984

80. 3, 5, 10

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-6061

**JOSE GARCIA AND FRANCISCO GARCIA,
PETITIONERS v. UNITED STATES**

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

[December —, 1984]

JUSTICE STEVENS, dissenting.

When the literal application of a statute would produce a result “demonstrably at odds with the intentions of its drafters,” the actual legislative intent must control our disposition. See *Griffin v. Oceanic Contractors, Inc.*, 458 U. S. 564, 571 (1982). I believe a similar rule should apply to the literal application of a federal criminal statute that is dramatically broader than the coverage that its draftsmen intended.

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

From: Justice Stevens

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8-1-10

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-6061

JOSE GARCIA AND FRANCISCO GARCIA,
PETITIONERS *v.* UNITED STATES

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

[December —, 1984]

JUSTICE STEVENS, with whom JUSTICE BRENNAN and
JUSTICE MARSHALL join, dissenting.

When the literal application of a statute would produce a result "demonstrably at odds with the intentions of its drafters," the actual legislative intent must control our disposition. See *Griffin v. Oceanic Contractors, Inc.*, 458 U. S. 564, 571 (1982). I believe a similar rule should apply to the literal application of a federal criminal statute that is dramatically broader than the coverage that its draftsmen intended.

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

October 30, 1984

No. 83-6061 Garcia v. United States

Dear Bill,

Please join me.

Sincerely,

Sandra

Justice Rehnquist

Copies to the Conference

AS:EA 13 100 18

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