

The Burger Court Opinion Writing Database

Trans World Airlines, Inc. v. Thurston

469 U.S. 111 (1985)

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

CHAMBERS OF
THE CHIEF JUSTICE

November 29, 1984

Re: No. 83-997 - TWA v. Thurston
No. 83-1325 - ALPA v. Thurston

Dear Lewis:

I join.

Regards,



Justice Powell

Copies to 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 WM. J. BRENNAN, JR.

December 12, 1984

No. 83-997) Trans World
) Airlines v.
) Thurston
)
) Thurston
) v. Airline
No. 83-1325) Pilots Ass'n

Dear Lewis,

I agree.

Sincerely,



Justice Powell

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

November 29, 1984

83-997 - TWA v. Thurston
83-1325 - Air Line Pilots Association,
International v. Thurston

Dear Lewis,

Please join me.

Sincerely yours,



Justice Powell

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 14, 1984

Re: Nos. 83-997 and 1325-Trans World Airlines v. Thurston
and Air Line Pilots Association v. Thurston

Dear Lewis:

Please join me.

Sincerely,


T.M.

Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 11, 1984

Re: No. 83-997) TWA, Inc. v. Thurston
No. 83-1325) Air Line Pilots Association,
International v. Thurston

Dear Lewis:

Please join me.

Sincerely,



Justice Powell

cc: The Conference

11/26

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

From: Justice Powell

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-997 AND 83-1325

TRANS WORLD AIRLINES, INC., PETITIONER
83-997
v.
HAROLD H. THURSTON ET AL.

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,
PETITIONER
83-1325
v.
HAROLD H. THURSTON ET AL.

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

[November —, 1984]

JUSTICE POWELL delivered the opinion of the Court

Trans World Airlines, Inc. (TWA), a commercial airline, permits captains disqualified from serving in that capacity for reasons other than age to transfer automatically to the position of flight engineer. In this case, we must decide whether the Age Discrimination in Employment Act (ADEA), 29 U. S. C. § 621 *et seq.*, requires the airline to afford this same "privilege of employment" to those captains disqualified by their age. We also must decide what constitutes a "willful" violation of the ADEA, entitling a plaintiff to "liquidated" or double damages.

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TWA has approximately 3,000 employees who fill the three cockpit positions on most of its flights.¹ The "captain" is the

¹ On certain long-distance flights, a fourth crew member, the "international relief officer," is in the cockpit. On some types of aircraft, there are only two cockpit positions.

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12/12

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

From: Justice Powell

Circulated: _____

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Ch. 1-6, 8-18

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SUPREME COURT OF THE UNITED STATES

Nos. 83-997 AND 83-1325

TRANS WORLD AIRLINES, INC., PETITIONER
83-997
v.
HAROLD H. THURSTON ET AL.

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,
PETITIONER
83-1325
v.
HAROLD H. THURSTON ET AL.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 6, 1985

MEMORANDUM TO THE CONFERENCE

84-578, Avtex Fibers, Inc. v. Robert McDowell, case held for
83-997, Trans World Airlines, Inc. v. Thurston

In this case, the DC awarded "liquidated" damages under the Age Discrimination in Employment Act of 1967, 29 U.S.C. §621 et seq., because the employer's violation of the Act was "voluntary, not accidental, mistaken, or inadvertant." CA3 used this same standard in affirming the lower court's award of double damages. In Trans World Airlines v. Thurston, No. 83-997, we held that an employee is entitled to double damages only if the employer "knew or showed reckless disregard for the matter of whether its conduct was prohibited by the ADEA." The courts below thus applied an improper standard, and the employer raises this issue in its petition. Therefore, I recommend that the Court grant the petition for the writ of certiorari, vacate the judgment below, and remand the case to CA3 for further proceedings in light of Thurston. The employer presents two other questions in its petition for certiorari, but I do not believe that these issues are worthy of plenary consideration by the Court at this time.

R. F. P.

L.F.P., Jr.



CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

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

November 29, 1984

No. 83-997) TWA v. Thurston
83-1325) Air Line Pilots Association v. Thurston

Dear Lewis,

Please join me. I voted otherwise at Conference on the BFOQ issue, but your opinion is sufficiently convincing on the point that I will not dissent.

Sincerely,

Justice Powell

cc: The Conference



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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

November 28, 1984

Re: 83-997 and 83-1325 - TWA v. Thurston

Dear Lewis:

Please join me.

Respectfully,

Justice Powell

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

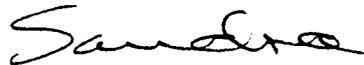
November 29, 1984

No. 83-997 TWA v. Thurston
No. 83-1325 Air Line Pilots Assoc. v. Thurston

Dear Lewis,

You have persuaded me also to join your opinion
in this case.

Sincerely,



Justice Powell

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