

The Burger Court Opinion Writing Database

In re Snyder

472 U.S. 634 (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 28, 1985

84-310 - In Re Robert J. Snyder

MEMORANDUM TO THE CONFERENCE:

To spare your working over the Record, I have attached an Appendix to the Opinion. It may be that much of this can be omitted when we come to rest.

Regards,

A handwritten signature in dark ink, appearing to be 'WR', is written below the typed word 'Regards,'.

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

From: **The Chief Justice**

Circulated: MAY 28 1985

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-310

IN RE ROBERT J. SNYDER, PETITIONER

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

[May —, 1985]

We granted certiorari to review the judgment of the Court of Appeals suspending petitioner from practice in all courts of the Eighth Circuit for six months.

I

In March of 1983, petitioner Robert Snyder was appointed by the District of North Dakota to represent a defendant under the Criminal Justice Act. After petitioner had fulfilled his duties of representation, he submitted a claim for \$1,898.55 for services and expenses to the District Court. The claim was reduced by the District Court to \$1,796.05, and the modified request was then approved and sent to the Court of Appeals for the Eighth Circuit.

Under the Criminal Justice Act, the Chief Judge of the Court of Appeals was required to review and approve any expenditures for compensation in excess of a \$1,000 limit.¹ 18 U. S. C. §3006A(d)(3). Chief Judge Lay deemed the claim approved by the District Court to be insufficiently documented; he returned it with requests for additional information. Because of technical problems with the computer program petitioner used to record his hours, petitioner could not easily provide the information in the form requested by the Chief Judge. He did, however, file a supplemental application which provided in a different form the information requested by the Chief Judge.

¹ The statutory limit has since been raised to \$2,000.

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

From: **The Chief Justice**

Circulated: _____

Recirculated: **JUN 12 1985**

SUBSTANTIAL CHANGES THROUGHOUT

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-310

IN RE ROBERT J. SNYDER, PETITIONER

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

[June —, 1985]

We granted certiorari to review the judgment of the Court of Appeals suspending petitioner from practice in all courts of the Eighth Circuit for six months.

I

In March of 1983, petitioner Robert Snyder was appointed by the District Court of North Dakota to represent a defendant under the Criminal Justice Act. After petitioner completed the assignment, he submitted a claim for \$1,898.55 for services and expenses. The claim was reduced by the District Court to \$1,796.05.

Under the Criminal Justice Act, the Chief Judge of the Court of Appeals was required to review and approve expenditures for compensation in excess of \$1,000.¹ 18 U. S. C. § 3006A(d)(3). Chief Judge Lay found the claim insufficiently documented, and he returned it with a request for additional information. Because of technical problems with his computer software, petitioner could not readily provide the information in the form requested by the Chief Judge. He did, however, file a supplemental application which provided the information requested in a different form.

Chief Judge Lay's secretary again returned the application, stating that Snyder's documentation was unacceptable. Petitioner then discussed the matter with Helen Monteith,

¹The statutory limit has since been raised to \$2,000.

CHANGES AS MARKED:

New Fr. 2,
p. 12

STYLISTIC CHANGES THROUGHOUT

JUN 21 1985

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 84-310

IN RE ROBERT J. SNYDER, PETITIONER

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

[June 24, 1985]

CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari to review the judgment of the Court of Appeals suspending petitioner from practice in all courts of the Eighth Circuit for six months.

I

In March of 1983, petitioner Robert Snyder was appointed by the District Court of North Dakota to represent a defendant under the Criminal Justice Act. After petitioner completed the assignment, he submitted a claim for \$1,898.55 for services and expenses. The claim was reduced by the District Court to \$1,796.05.

Under the Criminal Justice Act, the Chief Judge of the Court of Appeals was required to review and approve expenditures for compensation in excess of \$1,000.¹ 18 U. S. C. § 3006A(d)(3). Chief Judge Lay found the claim insufficiently documented, and he returned it with a request for additional information. Because of technical problems with his computer software, petitioner could not readily provide the information in the form requested by the Chief Judge. He did, however, file a supplemental application.

The secretary of the Chief Judge of the Circuit again returned the application, stating that the proffered documenta-

¹The statutory limit has since been raised to \$2,000. 18 U. S. C. A. § 3006A(d)(2) (1985).

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

CHAMBERS OF
THE CHIEF JUSTICE

July 11, 1985

MEMORANDUM TO THE CONFERENCE:

RE: 84-310 - In Re Snyder

I have received the attached letter from Judge Myron H. Bright of the United States Court of Appeals for the Eight Circuit.

If the Conference agrees, I would be willing to direct the Reporter of Decisions to insert a new footnote on page 7 of the current printed version of the opinion of the Court to be noted following the words "The petition for rehearing en banc was denied." The new footnote would read as follows:

" 734 F.2d at 341. Circuit Judges Bright and McMillian voted to grant the petition for rehearing en banc."

Regards,



attachment

copy to Henry Lind
Reporter of Decisions

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 29, 1985

No. 84-310 -- In Re Snyder

Dear Chief:

As I recall our discussion at Conference, there was a consensus to dispose of this case on the narrow ground that the content of the speech in Snyder's letter could in no sense be described as "conduct unbecoming a member of the bar of the court" within the meaning of Federal Rule of Appellate Procedure 46. I agree with your reliance on the "prejudicial to the administration of justice" standard of DR 102(A)(5) in giving content to Rule 46, and I generally agree with much of the analysis in your draft.

However, your draft includes a number of statements, many of them dicta, that could be read as going beyond this narrow ground and that seem unnecessary to the disposition of the case. For example:

1. You emphasize at several points that the letter was sent to the "District Court's functionary," as opposed to being "addressed to the judges of the Court of Appeals, or to any judge." Pp. 13-14. If we agree that the content of Snyder's letter in any event did not fall within the proscriptions of Rule 46, I do not believe that we should make--or need to make--any suggestion that the outcome might have been different had the letter been addressed to a member of the bench as opposed to a "secretary." Such an implication would seem to cut against many of our opinions over the years that have emphasized that judges are not insulated from direct criticism.

2. Similarly, you emphasize that this was a purely "private expression of ... concerns," as opposed, apparently, to public remarks that might "subject the court or the judicial system to disrepute." Pp. 13-14; see also p. 9. Again, if the content of the letter did not offend Rule 46, it seems to me that the suggestion of a public/private distinction is unwarranted. Attorneys and judges criticize the "judicial system" everyday in public discourse; indeed, we have all ourselves given speeches that some might view as bringing the "judicial system into disrepute." Elsewhere you set forth a much narrower standard--

whether the remarks cast "public doubt on the court's integrity or motives." P. 14. Where an attorney's remarks cast doubt on a judge's integrity or motives, or where they otherwise threaten the judge's maintenance of courtroom order or threaten the rights of litigants, discipline for such remarks might well be appropriate. Should we not take care to avoid any broader implication--particularly where, as here, it is unnecessary to the disposition?

3. Your footnote 7 arguably suggests that if Snyder had been "ordered to apologize," as opposed simply to being "invited to," the outcome might be different. I believe that if Snyder committed no misconduct at the outset, he had nothing to apologize for. Is it necessary to engage in a debate on this issue that appears unnecessary to the disposition of this case?

4. You note the absence of any indication of "prior or subsequent disrespectful conduct by petitioner toward any court." If the letter at issue did not violate Rule 46, I do not believe this factor would be relevant to the question of Snyder's discipline, and the arguable suggestion to the contrary might confuse the appropriate inquiry.

5. Finally, your footnote 8 and the accompanying text suggest that "[t]he court had available to it lesser measures than suspension." If we have concluded that Snyder did not engage in misconduct, no disciplinary measure would be appropriate. Should the footnote not be clarified to eliminate the arguable suggestion to the contrary?

For the moment, I will await further comments.

Sincerely,



The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 12, 1985

No. 84-310

In Re Snyder

Dear Chief,

Thank you very much for
accommodating my difficulties. I am
happy to join you.

Sincerely,

WJB by RL

The Chief Justice

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 29, 1985

84-310 - In Re Robert J. Synder

Dear Chief,

Please join me.

Sincerely,



The Chief Justice

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 13, 1985

Re: No. 84-310-In Re Robert J. Snyder

Dear Chief:

Please join me.

Sincerely,



T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

July 11, 1985

Re: No. 84-310 - In Re Snyder

Dear Chief:

I agree with your suggested insertion in this opinion.

Sincerely,

T.M.
T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 19, 1985

Re: No. 84-310, In re Robert J. Snyder

Dear Chief:

I think it best if I stay out of the decision in
this case.

Sincerely,

H.A.B.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 29, 1985

Re: No. 84-310, In re Robert J. Snyder

Dear Chief:

In line with my note to you of April 19, will you please add the following at the end of your opinion:

"JUSTICE BLACKMUN took no part in the decision of this case."

Sincerely,

H. A. B.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 20, 1985

Re: No. 84-310, In re Robert J. Snyder

Dear Chief:

Because it is still not specified in the second draft of your opinion, now scheduled to come down on Monday, would you please note that I did not participate "in the decision" of this case.

Sincerely,

HAS.
—

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

July 11, 1985

Re: No. 84-310, In re Snyder

Dear Chief:

Although I really have no standing to comment (because I did not participate in the decision of the case) I heartily approve of your adding the proposed new footnote. Knowing the situation in the Circuit, I was tempted to suggest that you name the dissenters when your opinion was circulated, but concluded that I should make no comment because of my nonparticipation. Your adding the footnote will fortify me somewhat when I attend the Circuit Judicial Conference later this month.

Sincerely,

H. A. B. / by luv

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 29, 1985

84-310 In Re Robert J. Snyder

Dear Chief:

Please join me.

Sincerely,

Lewis

The Chief Justice

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

June 3, 1985

Re: No. 84-310 In Re Robert J. Snyder

Dear Chief,

Please join me.

Sincerely,

WHR

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

July 12, 1985

Re: No. 84-310 In Re Snyder

Dear Chief,

I would prefer to have your opinion in this case revised to show only that two judges of the Court of Appeals dissented without naming them; it seems to me that this is more in keeping with most of the opinions we write when it comes to describing actions of the Court of Appeals. If a majority agrees otherwise, however, I will go along.

Sincerely,

WHR/ACV

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 12, 1985

Re: 84-310 - In Re Snyder

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

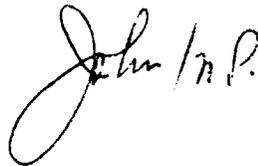
July 11, 1985

Re: 84-310 - In Re Snyder

Dear Chief:

Your proposed insertion of a new footnote is fine with me.

Respectfully,

A handwritten signature in cursive script, appearing to read "John P. Stevens".

The Chief Justice

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 28, 1985

No. 84-310 In Re Robert J. Snyder

Dear Chief,

Please join me.

Sincerely,

Sandra

The Chief Justice

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

July 11, 1985

No. 84-310 In Re Snyder

Dear Chief,

I have no objection to your addition.

Sincerely,



The Chief Justice

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