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United States v. Fulton

475 U.S. 657 (1986)

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

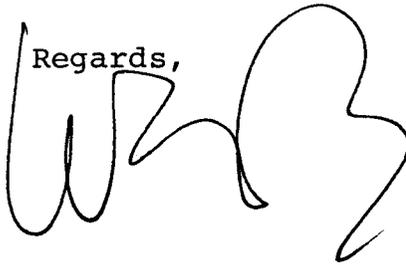
March 31, 1986

84-1725 - United States v. City of Fulton

Dear Thurgood:

I join.

Regards,



Justice Thurgood Marshall

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MAR 31 1986

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

March 28, 1986

No. 84-1725

United States v. City of Fulton

Dear Thurgood,

I agree.

Sincerely,

Justice Marshall

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U.S. Supreme Court
Washington, D.C. 20543



CHAMBERS OF
JUSTICE BYRON R. WHITE

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

March 27, 1986

84-1725 - United States v. City of Fulton

Dear Thurgood,

Please join me.

Sincerely yours,

Justice Marshall

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P. 6

To: The Chief Justice
 Justice Brennan
 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

No. 84-1725

UNITED STATES, PETITIONER *v.* CITY OF FULTON
 ET AL.

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

[March —, 1986]

JUSTICE MARSHALL delivered the opinion of the Court.

This case presents the question whether the Secretary of Energy violated §5 of the Flood Control Act of 1944, 16 U. S. C. §825s, or his contractual obligations by putting rates for hydroelectric power generated at federally owned dams into effect on an interim basis pending further review by the Federal Energy Regulatory Commission. The Court of Claims held that the Secretary's actions exceeded his contractual and statutory authority, and granted summary judgment to respondents. 680 F. 2d 115 (1982). After further proceedings, the Court of Appeals for the Federal Circuit affirmed, finding that the Court of Claims' decision was the law of the case and correct on the merits. 751 F. 2d 1255 (1985). We granted certiorari, — U. S. — (1985), and we now reverse.

I

A

In the Flood Control Act, Congress authorized the construction of a number of dam and reservoir projects, operated by the Army Corps of Engineers and producing large blocks of hydroelectric power. Congress had granted authority for several such projects before 1944, but had enacted no "general law governing the sale and distribution of power" so generated. S. Rep. No. 1030, 78th Cong., 2d Sess. 3

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

STYLISTIC CHANGES THROUGHOUT

From: **Justice Marshall**

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1725

UNITED STATES, PETITIONER *v.* CITY OF FULTON
 ET AL.

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

[April —, 1986]

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STYLISTIC CHANGES THROUGHOUT

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

From: Justice Marshall

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1725

UNITED STATES, PETITIONER *v.* CITY OF FULTON
 ET AL.

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

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 31, 1986

Re: No. 84-1725, United States v. City of Fulton

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

cc: The Conference

APR 31 1986

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 27, 1986

84-1725 United States v. Fulton

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Dear Thurgood:

Please join me.

Sincerely,

Lewis

Justice Marshall

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 27, 1986

Re: 84-1725 - United States v. City of Fulton

Dear Thurgood:

Please join me.

Sincerely,

Wm

Justice Marshall

cc: The Conference

APR 5 1986

APR 5 1986

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 27, 1986

Re: 84-1725 - United States v. City
of Fulton

Dear Thurgood:

Please join me.

Respectfully,



Justice Marshall

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ES:QA 35 RM 88

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 27, 1986

Re: 84-1725 United States v. City of Fulton, et al.

Dear Thurgood,

Please join me.

Sincerely,



Justice Marshall

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