

The Burger Court Opinion Writing Database

Bowen v. City of New York

476 U.S. 467 (1986)

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 10, 1986

RE: No. 84-1923 - Bowen v. New York

MEMORANDUM TO THE CONFERENCE:

At Conference I "passed" on this one. I now vote to
affirm.

Regards,



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

CHAMBERS OF
THE CHIEF JUSTICE

May 26, 1986

84-1923 - Otis R. Bowen, Sec. of H.H.S., et al. v.
City of New York, et al.

Dear Lewis:

I join.

Regards,


Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 12, 1986

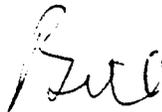
No. 84-1923

Bowen v. City of New York

Dear Lewis,

Please join me.

Sincerely,



Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 14, 1986

Re: No. 84-1923-Bowen v. City of New York

Dear Lewis:

Please join me.

Sincerely,

T.M.
T.M.

Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 14, 1986

84-1923 - Bowen v. City of New York

Dear Lewis,

I shall not dissent in this case.

Sincerely yours,



Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 19, 1986

Re: No. 84-1923, Bowen v. City of New York

Dear Lewis:

Please join me.

Sincerely,

Justice Powell

cc: The Conference

05/09

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

From: **Justice Powell**

Circulated: MAY 10 1986

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1923

OTIS R. BOWEN, SECRETARY OF HEALTH AND
HUMAN SERVICES, ET AL., PETITIONERS *v.*
CITY OF NEW YORK ET AL.

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

[May —, 1986]

JUSTICE POWELL delivered the opinion of the Court.

This class action was brought pursuant to 42 U. S. C. § 405(g) challenging an internal policy of the Secretary of Health and Human Services that had the effect of denying disability benefits to numerous claimants who may have been entitled to them. The issues presented are whether the District Court correctly included within the class (i) claimants who had received a final decision on their individual claims for benefits more than sixty days prior to the filing of this action, and (ii) other claimants who had not exhausted their administrative remedies.

I

The federal government provides benefits to disabled persons under two distinct programs administered by the Social Security Administration (SSA). The Social Security Disability Insurance Program (SSD) established by Title II of the Social Security Act, 49 Stat. 622, as amended, 42 U. S. C. § 401 *et seq.*, pays benefits to disabled persons who have contributed to the program and who suffer from a mental or physical disability. The Supplemental Security Income Program (SSI) established by Title XVI of the Act, 86 Stat. 1465 as amended, 42 U. S. C. § 1381, provides benefits to indigent disabled persons. Both statutes define "disability" as the

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May 29, 1986

84-1923 Bowen v. City of New York

Dear Chief:

Confirming our conversation this afternoon, I will be having my eyes checked at the Wilmer Institute on Monday. I would appreciate your announcing the decision of the Court in the above case.

Byron is the only member of the Court who did not join my opinion. He concurs only in the judgment, but did not write. Accordingly, I think all you need say is the following:

"I have the decision to announce in 84-1923 Bowen, Secretary of Health and Human Services v. City of New York. For the reasons set forth in the opinion of Justice Powell filed today with the Clerk, the judgment of the Court of Appeals for the Second Circuit is affirmed."

I will appreciate your doing this in my absence.

Sincerely,

The Chief Justice

lfp/ss

05/28

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

Stylistic Changes Throughout

From: **Justice Powell**

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MAY 29 1986

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1923

OTIS R. BOWEN, SECRETARY OF HEALTH AND
HUMAN SERVICES, ET AL., PETITIONERS *v.*
CITY OF NEW YORK ET AL.

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

[June —, 1986]

JUSTICE POWELL delivered the opinion of the Court.

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May 30, 1986

84-1923 Bowen v. City of New York

Dear Chief:

Byron's Chambers advises today that he joins my opinion in this case - not just the judgment.

The form of announcement in my letter to you yesterday remains appropriate.

Sincerely,

The Chief Justice

lfp/ss

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 4, 1986

MEMORANDUM TO THE CONFERENCE

Cases held for Bowen v. City of New York, No. 84-1923

85-55, Heckler v. Polaski (CA8)

64R
Petr here contends that the District Court incorrectly included in a class action under 42 U.S.C. §405(g) numerous claimants who had not exhausted their administrative remedies.

Respondent Polaski filed a complaint in District Court seeking review of the termination of her social security benefits by the Secretary. She later amended her complaint to pursue the case as a class action on behalf of similarly situated disabled persons within the CA8. The amended complaint alleged that the Secretary was not following the law in that she was terminating disability benefits in the absence of evidence demonstrating either that the claimant's condition had materially improved or that the original decision granting benefits was erroneous; and second, that the Secretary erred in that she was requiring that objective medical evidence fully corroborate a disability claimant's allegations of pain and other subjective impairments. The District Court issued a preliminary injunction and a class certification order. While the case was on appeal, Congress enacted the Social Security Disability Benefits Reform Act of 1984, that had a remand provision for those who were claiming their benefits were wrongly terminated, but that did not cover class claimants who had not previously been receiving disability benefits (new applicants). With respect to these class members, the Court of Appeals rejected the Secretary's contention that the court had no jurisdiction to resolve the pain issue because the new-applicant class members had not exhausted administrative remedies.

The Court of Appeals upheld the District Court's determination that the Secretary had to reopen claims for benefits of people who did not exhaust administrative remedies. In her cert petition, the Secretary recommended that this case be held for City of New York and claimed that the petitioners here had not met the Eldridge collateral issue/ irreparable harm standard. In addition, here the Court of Appeals agreed with the underlying standard ultimately applied by the Secretary.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 4, 1986

MEMORANDUM TO THE CONFERENCE

Cases held for Bowen v. City of New York, No. 84-1923

85-474, Hyatt v. Heckler (CA4)

MPR
This petition presents four questions: (1) whether the Social Security Reform Act of 1984 precludes federal courts from enjoining the Secretary's policy of nonacquiescence; (2) whether the 60-day requirement embodied in §405(g) is jurisdictional, rather than a statute of limitations; (3) whether §405(g) requires exhaustion when a plaintiff challenges the application of an improper standard for entitlement, and when the Secretary refuses to acquiesce in circuit decisions; (4) whether mandamus jurisdiction exists over the claims of plaintiffs who did not exhaust or strictly comply with the 60-day limit in §405(g).

Petitioners brought a class action challenging the Secretary's failure to acquiesce in three separate CA4 opinions dealing with standards for evaluating medical disability claims. The District Court ordered the Secretary to end her policy of nonacquiescence, and certified a class of plaintiffs entitled to receive reconsideration of their claims. This class consisted of a number of subclasses, among which were claimants whose initial requests for disability based on diabetes, hypertension, or pain were denied. This class was certified even though a number of claimants had not met the 60-day filing requirement or the exhaustion requirement of §405(g). The District Court applied the Mathews, collateral, and irreparable harm standard and excused exhaustion. The District Court did not expressly address the 60 day requirement.

While appeal was pending Congress enacted the Social Security Disability Benefits Reform Act of 1984. Although this Act covered certain claims pending on appeal, the Court of Appeals noted that the 1984 Act did not provide initial claimants the same right to reconsideration via remand it granted claimants whose benefits were terminated. It ruled that initial claimants, therefore, must be limited to those who meet the requirements of §405(g) of the Social Security

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 14, 1986

Re: No. 84-1923 Bowen v. City of New York

Dear Lewis,

Please join me.

Sincerely,

wm

Justice Powell

cc: The Conference



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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 12, 1986

Re: 84-1923 - Bowen v. City of New York

Dear Lewis:

Please join me.

Respectfully,

Justice Powell

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CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

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

May 21, 1986

No. 84-1923 Bowen v. City of New York

Dear Lewis,

Please join me.

Sincerely,

Justice Powell

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