

# The Burger Court Opinion Writing Database

## *Icicle Seafoods, Inc. v. Worthington*

475 U.S. 709 (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

April 7, 1986

RE: 85-195 - Icicle Seafoods, Inc. v. Larry Worthington

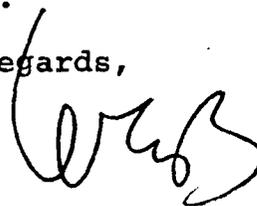
Dear John:

I voted to deny cert in this case and at conference voted, as a first choice, to DIG on remand.

You voted to affirm and I asked you if you would be interested in writing a dissent since "I might join a narrowly written reversal."

I now conclude, like Byron, that Bill's opinion makes a narrow case, and I will join him.

Regards,



Justice Stevens

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LC 85-8 10 28

APR 10 1986

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

April 4, 1986

No. 85-195

Icicle Seafoods, Inc.  
v. Worthington, et al.

Dear Bill,

Please join me.

Sincerely,

*Bill*

Justice Rehnquist

Copies to the Conference

APR 4 1986

REHNQUIST



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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 4, 1986

85-195 - Icicle Seafoods, Inc. v. Worthington

Dear Bill,

Although I was the other way at  
Conference, you have written an opinion that  
I can and do join.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 7, 1986

Re: No. 85-195-Icicle Seafoods v. Worthington

Dear Bill:

Please join me.

Sincerely,



T.M.

Justice Rehnquist

cc: The Conference

1

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 8, 1986

Re: No. 85-195, Icicle Seafoods v. Worthington

Dear Bill:

Please join me.

Sincerely,  
*H.A.B.*

Justice Rehnquist

cc: The Conference

SE 1986-8 10 28

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 4, 1986

85-195 Icicle Seafoods v. Worthington

Dear Bill:

Please join me.

Sincerely,

*Lewis*

Justice Brennan

lfp/ss

cc: The Conference

APR 10 1986

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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1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 85-195

**ICICLE SEAFOODS, INC., PETITIONER v. LARRY  
 WORTHINGTON ET AL.**

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

[April —, 1986]

JUSTICE REHNQUIST delivered the opinion of the Court.

Respondents sued their employer, petitioner Icicle Seafoods, Inc., to recover overtime benefits to which they thought they were entitled under the Fair Labor Standards Act (FLSA) 29 U. S. C. § 207(a)(1). After a two-day trial, the United States District Court for the Western District of Washington held that respondents were excluded from the overtime benefits of the FLSA by 29 U. S. C. § 213(b)(6), which excludes "any employee employed as a seaman." Reviewing this issue under a "de novo" standard of review, the Court of Appeals for the Ninth Circuit reversed the judgment of the District Court, holding that respondents were not "seamen," but instead were industrial maintenance employees on a barge that processed fish caught by a fishing fleet in the coastal waters of the Pacific Northwest. 749 F. 2d 1409 (1984). We granted certiorari to consider whether the Court of Appeals applied the appropriate standard of review in passing on the District Court's judgment.

The District Court made the following pertinent findings of fact related to whether respondents were "seamen" within the meaning of § 213(b)(6):

"2. Defendant Icicle Seafoods owned and operated a seafood processing vessel named the *ARCTIC STAR*. Each of the Plaintiffs worked for defendant on board the *ARCTIC STAR* as members of the Engineering Depart-

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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STYLISTIC CHANGES THROUGHOUT

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 85-195

ICICLE SEAFOODS, INC., PETITIONER *v.* LARRY  
 WORTHINGTON ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
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[April —, 1986]

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The District Court made the following pertinent findings of fact related to whether respondents were "seamen" within the meaning of § 213(b)(6):

"2. Defendant Icicle Seafoods owned and operated a seafood processing vessel named the *ARCTIC STAR*. Each of the Plaintiffs worked for Defendant on board the

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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1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 85-195

ICICLE SEAFOODS, INC., PETITIONER *v.*  
LARRY WORTHINGTON ET AL.

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

[April —, 1986]

JUSTICE STEVENS, dissenting.

The Court chastises the Court of Appeals for supplying a gap in the District Court's factual findings with uncontested facts rather than "remand[ing] to the District Court to make those findings." *Ante*, at 5. I disagree.

The issue in this case is whether respondents, who are maintenance employees on a non-self propelled seafood processing barge, qualify as seamen under the Fair Labor Standards Act and are therefore entitled to overtime benefits under that Act. See 29 U. S. C. § 207(a)(1). The only dispute below was with regard to the proper definition of "seaman"—an issue on which certiorari was denied and one on which the Court ventures no opinion. The District Court "found that the [respondents] performed work of a maritime character on navigable waters" and "concluded that the [respondents] were 'seamen' and exempt from the overtime provisions of the FLSA under 29 U. S. C. § 213(b)(6)." 749 F. 2d 1409, 1411 (CA9 1984). The Court of Appeals reversed because "[o]ne does not become a 'seaman' under the FLSA merely by performing services aboard a vessel on navigable waters." *Id.*, at 1412. Under a proper understanding of the statute, it held that respondents were not seamen:

"These facts are undisputed.

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

STYLISTIC CHANGES THROUGHOUT  
 7.1

From: **Justice Stevens**

Circulated: APR 10 1986

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2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 85-195

ICICLE SEAFOODS, INC., PETITIONER *v.*  
 LARRY WORTHINGTON ET AL.

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

[April —, 1986]

JUSTICE STEVENS, dissenting.

The Court chastises the Court of Appeals for supplying a gap in the District Court's factual findings with uncontested facts rather than "remand[ing] to the District Court to make those findings." *Ante*, at 5. The criticism is unwarranted.

The issue in this case is whether respondents, who are maintenance employees on a non-self-propelled seafood processing barge, qualify as seamen under the Fair Labor Standards Act and are therefore entitled to overtime benefits under that Act. See 29 U. S. C. § 207(a)(1). The only dispute below was with regard to the proper definition of "seaman"—an issue on which certiorari was denied and one on which the Court ventures no opinion. The District Court "found that the [respondents] performed work of a maritime character on navigable waters" and "concluded that the [respondents] were 'seamen' and exempt from the overtime provisions of the FLSA under 29 U. S. C. § 213(b)(6)." 749 F. 2d 1409, 1411 (CA9 1984). The Court of Appeals reversed because "[o]ne does not become a 'seaman' under the FLSA merely by performing services aboard a vessel on navigable waters." *Id.*, at 1412. Under a proper understanding of the statute, it held that respondents were not seamen:

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

April 3, 1986

No. 85-195 Icicle Seafoods, Inc. v.  
Worthington

Dear Bill,

Please join me.

Sincerely,



Justice Rehnquist

50 168-4 12 51

Copies to the Conference