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United States v. Mottaz

476 U.S. 834 (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

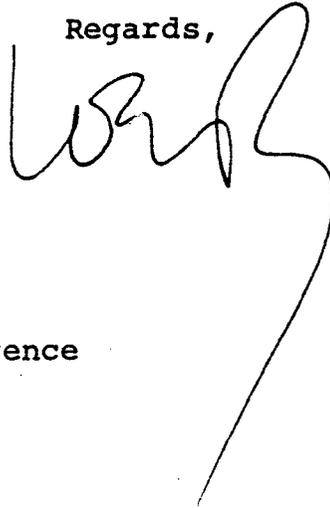
June 4, 1986

85-546 - U.S. v. Mottaz

Dear Harry:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'W. Blackmun', written in a cursive style. The signature is positioned to the right of the typed name 'Justice Blackmun'.

Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

May 5, 1986

Dear Thurgood,

You and I are in dissent in No. 85-
546, United States v. Mottaz. I'll try
my hand at the dissent.

Sincerely,

Bill

Justice Marshall

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 3, 1986

No. 85-546

United States v. Mottaz

Dear Thurgood,

Do you really think we need a dissent in this case? After reading what Harry has written, I personally feel it would be a waste of time.

Sincerely,

A handwritten signature in cursive script that reads "Bill".

Justice Marshall

5

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 30, 1986

85-546 - United States v. Mottaz

Dear Harry,

Please join me.

Sincerely yours,



Justice Blackmun

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 28, 1986

Re: No. 85-546 - U.S. v. Florence Blacketter Mottaz

Dear Harry:

I await the dissent.

Sincerely,



T.M.

Justice Blackmun

cc: The Conference

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

From: Justice Blackmun

Circulated: MAY 28 1986

Recirculated: _____

HA
I am not sure
1/

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 85-546

UNITED STATES, PETITIONER *v.* FLORENCE
BLACKETTER MOTTAZ, *ETC.*

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

[June —, 1986]

JUSTICE BLACKMUN delivered the opinion of the Court.

The question presented by this case is whether respondent's suit against the United States is time barred. In 1954, the Government sold respondent's interests in three Indian allotments to the United States Forest Service for inclusion in the Chippewa National Forest in Minnesota. Respondent claims that the sale was void. We hold that respondent's suit is an action "to adjudicate a disputed title to real property in which the United States claims an interest," within the meaning of the Quiet Title Act of 1972, 28 U. S. C. § 2409a(a), and therefore is barred by that Act's 12-year period of limitations. See 28 U. S. C. § 2409a(f).

I

In 1905, pursuant to the General Allotment Act of 1887, 24 Stat. 388, as amended, 25 U. S. C. § 331 *et seq.*, and the Nelson Act of 1889, 25 Stat. 642, three Chippewa Indian ancestors of respondent Florence Blacketter Mottaz each received an 80-acre allotment on the Leech Lake Reservation in Cass County, Minn.¹ Title to each of these allotments was held in trust by the United States. Respondent eventually inherited a one-fifth interest in one of the allotments and a one-thirtieth interest in each of the other two.

¹For a general discussion of the allotment program, see F. Cohen, *Handbook of Federal Indian Law* 612-632 (1982 ed.).

STYLISTIC CHANGES

+ pp. 2, 3, 5, 9

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

From: Justice Blackmun

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 85-546

UNITED STATES, PETITIONER *v.* FLORENCE
BLACKETTER MOTTAZ, ETC.

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

[June —, 1986]

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I

In 1905, pursuant to the General Allotment Act of 1887, 24 Stat. 388, as amended, 25 U. S. C. § 331 *et seq.*, and the Nelson Act of 1889, 25 Stat. 642, three Chippewa Indian ancestors of respondent Florence Blacketter Mottaz each received an 80-acre allotment on the Leech Lake Reservation in Cass County, Minn.¹ Title to each of these allotments was held in trust by the United States. Respondent eventually inherited a one-fifth interest in one of the allotments and a one-thirtieth interest in each of the other two.

¹For a general discussion of the allotment program, see F. Cohen, *Handbook of Federal Indian Law* 612-632 (1982 ed.).

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 9, 1986

MEMORANDUM TO THE CONFERENCE

Re: Holds for No. 85-546, United States v. Mottaz

There are two holds for Mottaz:

1. No. 85-372, Christensen v. United States. Petitioners filed a § 345 suit challenging the Government's denial of access to their allotments. The denial of access, which consisted of a revocation of the privilege of using a right of way, occurred in 1951. The district court (Nev., Reed) found that petitioners had been aware of this denial since 1951, see App. to Pet. for Cert. 9, that their cause of action had therefore accrued in 1951, and that their claim was barred by § 2401(a). CA9 affirmed, on the basis of its prior holding in Loring v. United States, 610 F.2d 649, 650 (CA9 1979).

Unlike Mottaz, this case was properly brought under § 345. Thus, it presents the question we did not need to reach there, namely, whether the general 6-year statute of limitations governing civil actions against the Government, 28 U.S.C. § 2401(a), applies to cases brought under the General Allotment Act, 25 U.S.C. § 345. See Mottaz, slip op. 10.

The circuit conflict petrs allege dissolves upon examination. First, the CA8's Mottaz opinion did not discuss the applicability of § 2401(a) to § 345 claims since it went off on the theory that Ewert v. Bluejacket, 259 U.S. 129 (1922), showed that a title claim never accrues for purposes of triggering § 2401(a). Petitioners here are not raising a title claim. Second, neither of the two CA10 cases petitioners cite -- Vicenti v. United States, 470 F.2d 845 (1972), cert. dismiss'd, 414 U.S. 1057 (1973), and Begay v. Albers, 721 F.2d 1274 (1983) -- actually addressed the statute of limitations issue. Vicenti found that the plaintiffs could not bring their action under § 345, and thus never reached the limitations issue; Begay involved a suit against private parties and thus § 2401(a) was inapposite, since it governs only actions against the United States.

Nor do I find persuasive petitioners' argument that the legislative history of § 2401(a), whose predecessor, 28 U.S.C. § 41(20) (1940), applied only to Tucker Act claims, shows that § 2401(a) was not intended to apply to § 345 claims.



CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

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

May 30, 1986

85-546 United States v. Mottaz

Dear Harry:

Please join me.

Sincerely,

Lewis

Justice Blackmun

lfp/ss

cc: The Conference



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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 30, 1986

Re: No. 85-546 United States v. Mottaz

Dear Harry,

Please join me.

Sincerely,

Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 28, 1986

Re: 85-546 - United States v. Mottaz

Dear Harry:

Your opinion is first-rate and I will join it. I do, however, have three relatively minor suggestions to make.

First, I hope you will consider omitting footnote 4 on page 3. It does not seem to me that the plaintiff's deposition testimony that she never received payment can provide a basis for questioning the Government's statement that there was no allegation to this effect in the complaint. Moreover, I do not believe an allegation that she did not receive "just compensation" is equivalent to an allegation that she received nothing. In other words, she might have been paid the contract price, but since she did not consent to it, did not regard it as "just compensation."

In the second sentence in the first full paragraph on page 5, you refer to the holding in Ewert v. Bluejacket. The sentence is accurate, but it seems to suggest that the statutory prohibition related entirely to the character of the Indian land, whereas it was also important in that case that the agent was violating the conflict of interest statute. I wonder if you would be willing to insert after the word "allotment" in the third line of the paragraph a reference to the identity of the purchaser. Perhaps the word "to a Government agent" or something similar would make the point.

On page 9 there seems to be some tension between the last sentence in footnote 7 which states that respondent "in fact knew" of the sale of her allotments and the concluding statement in the text

that she "should have known" of the sale. Perhaps the footnote should read "knew or should have known."

Respectfully,

A handwritten signature in cursive script, appearing to be 'J. Blackmun', written in dark ink.

Justice Blackmun



CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

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

May 29, 1986

Re: 84-546 - United States v. Mottaz

Dear Harry:

Please join me.

Respectfully,

Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 28, 1986

No. 85-546 United States v. Mottaz

Dear Harry,

Please join me.

Sincerely,



Justice Blackmun

Copies to the Conference