

1-21-1981

## 01-21-1981 Preliminary Memorandum

Unknown

*Law clerk, US Supreme Court*

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JB

X  
JJB

*remand for a/paper*

January 23, 1981 Conference  
Supplemental List

No. 80-5303

Motion of Petitioner for  
Summary Reversal and Remand  
in Part

BELTRAN

v.

MYERS

CA 9

SUMMARY: On Nov. 3, the Court granted cert limited to the question of whether California's application of a transfer of assets rule to its medically needy aged, blind, and disabled applicants for Medicaid, resulting in the denial of assistance to individuals otherwise eligible, contradicts the applicable portions of the Social Security Act and thus violates the Supremacy Clause. On Dec. 23, the President signed legislation that will explicitly permit states to employ a transfer of assets rule to applicants for Medicaid. Petr seeks summary reversal and remand on the ground that the new legislation confirms that Calif.'s application of a transfer of assets rule was contrary to existing legislation.

BACKGROUND: Title XIX of the Social Security Act established the Medicaid program, a cooperative federal-state program to provide medical assistance to certain classes of people. States are not required to participate; if they do, they must develop plans that conform to the federal guidelines. The states must provide assistance to "categorically needy" individuals, that is, persons receiving certain enumerated kinds of assistance (such as Supplemental Security Income (SSI)).

The states apparently have some discretion in determining how "medically needy" individuals are covered. These are individuals who become needy because of medical expenses. At issue is whether Calif. may apply a transfer of assets (TOA) rule to these individuals. The TOA rule can operate to prevent a person from qualifying as "medically needy" if within two years of the application he has transferred assets for less than full consideration. The rule raises a presumption that the transfer was made to enable the applicant to qualify for aid.

Under federal law the TOA rule may not be utilized in determining eligibility for SSI payments and hence may not be applied to "categorically needy" individuals. The petr, the responsible federal agency and most courts hold that the federal statutes and regulations do not permit the application of a more stringent criteria<sup>on</sup> to "medically needy" individuals than to "categorically needy" persons. Calif. and the CA 9 disagree.

CONTENTIONS: Petr contends that the legislation enacted Dec. 28, by permitting use of TOA rules in determining eligibility for both SSI and Medicaid assistance, confirms petr's contention that Calif.'s TOA rule was contrary to existing federal legislation. Petr argues

that the legislation was explicitly intended to change a perceived inadequacy in the existing statutes: namely, that a person could meet the financial eligibility requirement for SSI by disposing of his assets. Since Calif.'s TOA rule does not allow this, petr concludes that it is contrary to the federal statutes.

Petr argues that in light of the explicit congressional recognition of present federal law, the Court should summarily reverse and remand. Petr also suggests that as to applicants after the effective date of the new legislation, July 1, 1981, the lower courts' decisions should be vacated and the matter remanded for consideration of Calif.'s TOA rule under the new legislation (possibly with a new class representative).

Resp in its brief argues that the use of subsequent legislative history to interpret the statute is of dubious value. Resp argues that this Court has recognized that pronouncements by a subsequent Congress are not entitled to the same weight as those of the Congress that enacted a measure. Furthermore, resp points out that the Senate Finance Committee in its explanation of the subsequently enacted bill stated that its recognition of the existence of court opinions adopting petr's position should not be construed as agreement with the opinions. Finally resp argues that the new legislation, in adopting Calif.'s approach, suggests the greater wisdom of Calif.'s policy.

DISCUSSION: Regardless of the ultimate merits of petr's case, it does not lend itself to summary treatment. Petr's argument that the existing laws prohibited the use of TOA rules in the eligibility standard for "medically needy" depends on an analysis of the statutes, with which the CA 9 disagreed. Similarly petr's use of the new legislation to support her position also relies on an analysis of the new

statutes. The new statutes do not expressly support petr's position and a determination of Congress's intent is complicated by two factors. First, the new legislation specifically changed the rules for SSI eligibility. In light of this change, it is difficult to determine whether Congress addressed the particular problem of the standard for "medically needy". Second, Congress may be motivated by a conclusion that an existing practice is questionable rather than that it is illegal.

Petr has not carried her burden of demonstrating that the CA 9 was so clearly wrong as to allow summary reversal.

1/21/81

Schickele

PJC

I agree that the stat. interp questions are not so clear-cut as petr suggests.

X

JTB

1/22/81