

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1970

No. 40 Original

Supreme Court, U.S.
FILED

JAN 27 1972

E. ROBERT SEAVER, CLERK

COMMONWEALTH OF PENNSYLVANIA,

Plaintiff,

and

STATE OF CONNECTICUT,

Intervenor-Plaintiff,

vs.

STATE OF NEW YORK, ET AL,

Defendants.

EXCEPTIONS OF DEFENDANT STATE OF
FLORIDA TO REPORT OF SPECIAL MASTER

ROBERT L. SHEVIN
ATTORNEY GENERAL OF FLORIDA

Winifred L. Wentworth
Assistant Attorney General

Attorneys for Defendant
State of Florida

Capitol Building
Tallahassee, Florida 32304

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The Defendant State of Florida
excepts to the report of the Special
Master on the following grounds:

(1) The Special Master has concluded that the issue in this case is controlled by constitutional considerations, contrary to the decision of this

Court in Texas v. New Jersey that "the issue here is not controlled by. . . constitutional provisions or by past decisions. . . ." 379 U.S. 674, 683.

(2) The Special Master has improperly concluded that a custodial taking by the state shown on the debtor's records as the place for payment or purchase would unlawfully impair the individual creditor's property rights, when such a taking protects those rights more fully than any of the alternative claims asserted in this case.

(3) In concluding that the custodial claim to unclaimed money order funds by the state of original destination or payment is cut off by the sender's contract right to refund, the Special Master overlooks the fact that the only funds involved in this proceeding are those which have not or cannot be refunded and which became and remained unclaimed from the time the obligation to the original payee accrued.

(4) In concluding that the place designated on debtor's records for payment of money order funds does not constitute a creditor's address according to the debtor's books, within the rule of Texas v. New Jersey, supra, the Special Master has construed that decision to require a technically complete address supplied by the creditor to establish a factual foundation for a finding of legal residence, when the decision instead is based on a rule of equity and expedience and a presumption of residence which in the absence of contrary evidence is adequately supported by a debtor's record of the address at which payment is to be made to a creditor.

For these reasons, as well as those more fully stated in brief filed by the Defendant State of Florida before the Special Master, the Court is urged to reject the report filed herein and adopt the rule of distribution set out in defendant's brief.

Respectfully submitted,

ROBERT L. SHEVIN
ATTORNEY GENERAL

WINIFRED L. WENTWORTH
Assistant Attorney General

Capitol Building
Tallahassee, Florida 32304

Attorneys for Defendant
State of Florida

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PROOF OF SERVICE

I, Winifred L. Wentworth, Assistant Attorney General of the State of Florida, hereby certify that I am one of the attorneys for the defendants, State of Florida, that I am a member of the Bar of the Supreme Court of the United States, and that on the _____ day of January, 1972, I served copies of the foregoing Exceptions of Defendant State of Florida to Report of Special Master, on each of the parties by depositing such copies in a United States Post Office, addressed as follows:

E. Robert Seaver, Esq.
Clerk, United States Supreme Court
Washington, D. C.

Joseph H. Resnick, Esq.
Assistant Attorney General
404 Pennsylvania Building
1500 Chestnut Street
Philadelphia, Pa. 19102

Michael Edelman, Esq.
2442 The Fidelity Building
Philadelphia, Pa. 19109

Samuel Hirshowitz, Esq.
First Assistant Attorney General
80 Centre Street
New York, N. Y. 10013

Philip J. Engelgau, Esq.
Assistant Attorney General
of the State of Oregon
315 Public Service Building
Salem, Oregon 97310

Lee F. Davis, Jr., Esq.
Assistant Attorney General
of the Commonwealth of Virginia
P. O. Box 6L
Richmond, Virginia 23215

F. Michael Ahern, Esq.
Deputy Attorney General
of the State of Connecticut
30 Trinity Street
Hartford, Connecticut 06105

William J. Power, Esq.
Deputy Attorney General
of the State of California
500 Wells Fargo Bank Building
Fifth Street & Capitol Mall
Sacramento, California 95814

Peter F. Oates, Esq.
Senior Assistant General Counsel
The Western Union Telegraph Company
60 Hudson Street
New York, N. Y. 10013

Julius Greenfield, Esq.
Assistant Attorney General
80 Centre Street
New York, New York 10013

Hon. Gary K. Nelson
Attorney General of
the State of Arizona
159 State Capitol Building
Phoenix, Arizona 85007
Att: Leonard M. Bell, Esq.

William F. Thompson, Esq.
Assistant Attorney General
of the State of Indiana
219 State House
Indianapolis, Indiana 46204

ROBERT L. SHEVIN
ATTORNEY GENERAL

Winifred L. Wentworth
Assistant Attorney General

The Capitol
Tallahassee, Florida 32304

