

App'm 5-4 ?

No. 82-738

Migra v. Warren City School Dist.

Conf. 10/14/83

The Chief Justice

App'm (tentative)

Need not remand.

may require
affirm - but not comfortable

Justice Brennan

Vacate & Remand.

DC should have applied Ohio law,
but it did not.

We should ~~not~~ apply state law.

Would not fashion a fed. rule.

Justice White

App'm probably.

DC did not apply state law
but fed rule ~~is~~ controls.

§ 1738 does not prevent fed ct's
from applying ~~not~~ ^{an} independent
preclusion rule.

Agree with DC

≠

next to some
under Ohio law
including all claims that could have been
litigated. But I agree with Brennan
that we can apply fed. rule

Justice Marshall

Aff'm (tentative)

Allen & Kramer may require
aff'm - but not comfortable.

Justice Blackmun

Aff'm

Can join affirmance only if
narrowly written.

Doesn't agree with A.C.U.
Could almost agree that Ohio
law would preclude a second suit
under 51983.

Justice Powell

Aff'm probably. Also could Remand.

Principles stated in Allen v McCurry
& Kramer v Chemical Corp apply.

The state court judg. here must
be given full faith & credit (see
judicata) by a fed court to some
extent it would be under Ohio law,
- including all claims that could have been
litigated. But I agree with BRW
that we can apply fed. rule.

Justice Rehnquist

Affirm

DC applied fed law. Coogan was an Ohio case.

A fed. rule would be appropriate.

Justice Stevens

DC applied fed. rule.

Should ~~be~~ remanded to apply state case. Allen & Kramer require.

Doesn't agree with ACLU

Could almost agree that Ohio law would preclude a second suit under § 1483.

Justice O'Connor

Affirm(?)

§ 1738 contemplates state law ~~and~~ probably could agree that DC applied ~~Ohio~~ law. But will vote to remand ~~under~~ rather than decide a fed rule applies.