

## **Skidmore v. Swift & Co.**

323 U.S. 134 (1944)

Justice Jackson delivered the opinion of the Court,

Seven employees of the Swift and Company packing plant at Fort Worth, Texas, brought an action under the Fair Labor Standards Act to recover overtime, liquidated damages, and attorneys' fees totalling approximately \$77,000. \*\*\* It is not denied that the daytime employment of these persons was working time within the Act. \*\*\*

Under their oral agreement of employment, however, petitioners undertook to stay in the fire hall on the Company premises, or within hailing distance, three and a half to four nights a week. This involved no task except to answer alarms, either because of fire or because the sprinkler was set off for some other reason. No fires occurred during the period in issue, the alarms were rare, and the time required for their answer rarely exceeded an hour. For each alarm answered, the employees were paid, in addition to their fixed compensation, an agreed amount, fifty cents at first, and later sixty-four cents. The Company provided a brick fire hall equipped with steam heat and air-conditioned rooms. It provided sleeping quarters, a pool table, a domino table, and a radio. The men used their time in sleep or amusement as they saw fit, except that they were required to stay in or close by the fire hall and be ready to respond to alarms. \*\*\* The trial court \*\*\* made no findings of fact \*\*\* as to whether under the arrangement of the parties and the circumstances of this case \*\*\* the fire hall duty or any part thereof constituted working time. It said, however, as a "conclusion of law" that "the time plaintiffs spent in the fire hall subject to call to answer fire alarms does not constitute hours worked for which overtime compensation is due them under the Fair Labor Standards Act \*\*\* ," and in its opinion observed, "of course, we know pursuing such pleasurable occupations or performing such personal chores does not constitute work." The \*\*\* Court of Appeals affirmed.

[We] hold that no principle of law found either in the statute or in Court decisions precludes waiting time from also being working time. We have not attempted to, and we cannot, lay down a legal formula to resolve cases so varied in their facts as are the many situations in which employment involves waiting time. Whether, in a concrete case, such time falls within or without the Act is a question of fact to be resolved by appropriate findings of the trial court. This involves scrutiny and construction of the agreements between the particular parties, appraisal of their practical construction of the working agreement by conduct, consideration of the nature of the service, and its relation to the waiting time, and all of the surrounding circumstances. \* \* \* The law does not impose an arrangement upon the parties. It imposes upon the courts the task of finding what the arrangement was.

\* \* \*

Congress did not utilize the services of an administrative agency to find facts and to

determine in the first instance whether particular cases fall within or without the Act. Instead, it put this responsibility on the courts. *Kirschbaum v. Walling*, 316 U. S. 517, 316 U. S. 523. But it did create the office of Administrator, impose upon him a variety of duties, endow him with powers to inform himself of conditions in industries and employments subject to the Act, and put on him the duties of bringing injunction actions to restrain violations. Pursuit of his duties has accumulated a considerable experience in the problems of ascertaining working time in employments involving periods of inactivity and a knowledge of the customs prevailing in reference to their solution. From these he is obliged to reach conclusions as to conduct without the law, so that he should seek injunctions to stop it, and that within the law, so that he has no call to interfere. He has set forth his views of the application of the Act under different circumstances in an interpretative bulletin and in informal rulings. They provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it. \* \* \*

There is no statutory provision as to what, if any, deference courts should pay to the Administrator's conclusions. \* \* \* The rulings of this Administrator are not reached as a result of hearing adversary proceedings \* \* \* They are not, of course, conclusive, even in the cases with which they directly deal, much less in those to which they apply only by analogy. They do not constitute an interpretation of the Act \* \* \* which binds a district court's processes, as an authoritative pronouncement of a higher court might do. But the Administrator's policies are made in pursuance of official duty, based upon more specialized experience and broader investigations and information than is likely to come to a judge in a particular case. \* \* \* They do determine the policy which will guide applications for enforcement by injunction on behalf of the Government. Good administration of the Act and good judicial administration alike require that the standards of public enforcement and those for determining private rights shall be at variance only where justified by very good reasons. The fact that the Administrator's policies and standards are not reached by trial in adversary form does not mean that they are not entitled to respect. This Court has long given considerable, and in some cases decisive, weight to Treasury Decisions and to interpretative regulations of the Treasury and of other bodies that were not of adversary origin.

We consider that the rulings, interpretations, and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.

\* \* \* Each case must stand on its own facts. But, in this case, although the District Court referred to the Administrator's Bulletin, its evaluation and inquiry were apparently restricted by its notion that waiting time may not be work, an understanding of the law which we hold to be erroneous. Accordingly, the judgment is reversed and the cause remanded for further proceedings consistent herewith.